C O N V E N T I O N

BETWEEN

THE KINGDOM OF THAILAND AND THE REPUBLIC OF ITALY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the Kingdom of Thailand and the Government of the Republic of Italy,

Desiring to conclude a Convention to avoid double taxation and to prevent fiscal evasion with respect to taxes on income,

Have agreed as follows:

CHAPTER I

Scope of the Convention

Article 1

Personal scope

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

Article 2

Taxes covered

This Convention shall apply to taxes on income imposed

on ...

on behalf of each Contracting State or of its administrative subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, 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 this Convention shall apply are, in particular:

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 Italy:

I. the personal income tax (imposta sul reddito delle persone fisiche);

II. the corporate income tax (imposta sul reddito delle persone giuridiche);

III. the local income tax (imposta locale sui redditi)

even if they are collected by withholding taxes at the source (hereinafter referred to as "Italian tax").

4. This Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify to each other any important changes which have been made in their respective taxation laws.

CHAPTER II ...

CHAPTER II

Definitions

Article 3

General definitions

1. In this Convention, unless the context otherwise requires:

a) the term "Thailand" means the Kingdom of Thailand;

b) the term "Italy" means the Republic of Italy;

c) the terms "a Contracting State" and "the other Contracting State" mean Thailand or Italy as the context requires;

d) the term "person" comprises an individual, a company, a body of persons and any entity which is treated as a taxable unit under the tax 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;

g) the term "competent authority" means;

1. in the case of Thailand, the Minister of Finance or his authorised representative;

2. in the case of Italy, the Minister of Finance.

2. ...

2. As regards the application of this Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention.

Article 4

Fiscal domicile

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then this case shall be determined in accordance with the following rules:-

a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (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) ...

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, the competent authorities of the Contracting States shall settle the question by mutual agreement.

Article 5

Permanent establishment

1. For the purposes of this Convention, the term permanent establishment means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

2. The term "permanent establishment" shall include especially:

a) a place of management;

b) a branch;

c) an office;

d) a factory;

e) a workshop;

f) a mine, quarry or other place of extraction of natural resources.

3. The term "permanent establishment" shall not be deemed to include:

a) ...

a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

c) the maintenance of 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 for collecting information, for the enterprise;

e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character for the enterprise;

f) the assembly, or installation or setting up of plant equipment or machinery including construction as necessary for such installation, if it exists for not more than six months.

4. Notwithstanding the provisions of paragraph 3, a person acting in a Contracting State on behalf of an enterprise of the other Contracting State - other than an agent of an independent status to whom paragraph 5 applies - shall be deemed to be a permanent establishment in the first-mentioned State if

a) he has, and habitually exercises in that Contracting State, an authority to conclude contracts for or on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or

b) he habitually maintains in that Contracting State a stock of goods or merchandise belonging to the enterprise

from ...

from which he regularly delivers goods or merchandise for or on behalf of the enterprise; or

c) he habitually secures orders in that Contracting State, wholly or almost wholly for the enterprise itself, or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it.

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

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

CHAPTER III

Taxation of income

Article 6

Income from immovable property

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.

2. The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in any case include ...

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

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

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

Article 7

Business profits

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

2. Where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits

which ...

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 permanent establishment including executive and general administrative *expenses so incurred, whether in the State* in which the parmanent 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 reasonable percentage of the gross receipts of the enterprise or on the basis of an apportionment of the total profits of the enterprise to its various parts; *nothing in paragraph 2 shall preclude* such Contracting State from determining the profits to be taxed by such a method; the method adopted shall, however, be such that the result shall be in accordance with the principles laid down 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. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8 ...

Article 8

Shipping and air transport

1. Profits of an enterprise of a Contracting State from the operation of aircraft in international traffic shall be taxable only in that State.

2. If according to Article 7 an enterprise of a Contracting State operating ships in international traffic may be taxed in the other Contracting State, the tax charged shall, in that other State, be reduced by an amount equal to 50 per cent thereof.

3. The provisions of paragraphs 1 and 2 shall likewise apply to profits arising from participations in shipping or aircraft pools of any kind by such enterprise engaged in shipping or air transport.

Article 9

Associated enterprises

Where

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

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

and in either case conditions are made or imposed between the

two ...

two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

Article 10

Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident, but

a) the Thai tax shall not exceed:

(1) 20 per cent of the gross amount of the dividends if the company paying the dividends engages in an industrial undertaking or if the recipient of the dividends is a company which is a resident of Italy owning at least 25 per cent of the voting shares of the company paying the dividends;

(2) 15 per cent of the gross amount of the dividends if the company paying the dividends engages in an industrial undertaking and the recipient of the dividends is a company which is a resident of Italy owning at least 25 per cent of the voting shares of the former company;

b) ...

b) the Italian tax shall not exceed:

(1) 20 per cent of the gross amount of the dividends unless sub-paragraph (2) applies;

(2) 15 per cent of the gross amount of the dividends, if the recipient of the dividends is a company which is a resident of Thailand owning at least 25 per cent of the voting shares of the company paying the dividends.

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the dividends are taxable to that other Contracting State according to its own law.

5. Where ...

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 to persons who are not residents of the other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

Interest

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

2. However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the interest if the enterprise paying the interest engages in an industrial undertaking and the interest is received by any financial institution (including an insurance company) which is a company of the other Contracting State.

3. Notwithstanding the provisions of paragraph 2,

interest arising in a Contracting State shall be exempt from tax in that State if the interest is received by

a) the other Contracting State, an administrative subdivision or a local authority thereof, or

b) any financial institution wholly owned by the other Contracting State, an administrative subdivision or a local authority thereof, or

c) by a resident of the other Contracting State on bonds issued by the Government of the first-mentioned State.

4. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

5. The provisions of paragraphs 1 to 3 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case the interest is taxable in that other Contracting State according to its own law.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, an administrative subdivision 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

7. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12

Royalties

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

2. However, such royalties may be taxed in the Contracting State in which they arise, and according to the law of that Contracting State, but the tax so charged shall not exceed:

a) 5 per cent of the gross amount of the royalties if they are paid as consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work;

b) ...

b) in all other cases, 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, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

4. Royalties shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, an administrative 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 in connection with which the right or property giving rise to the royalties is effectively connected, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

5. The provisions of paragraph (1) and (2) shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the royalties shall remain taxable in that other Contracting State according to its own law.

6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other

person, ...

person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13

Capital Gains

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional 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 the other State.

3. Gains from the alienation of any property other than those mentioned in paragraph 1 and 2, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14 ...

Article 14

Independent personal services

1. Remuneration derived by a resident of a Contracting State in respect of professional services or other independent activities, of a similar character shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a rsident of a Contracting State in respect of professional services rendered in the other Contracting State may be taxed in that other State if:

a) the recipient is present in that other State for a period or periods exceeding in the aggregate 40 days in the fiscal year concerned, or

b) the remuneration is paid by, or on behalf of, an enterprise which is resident of that other State, or

c) the remuneration is borne by a permanent establishment which the person paying the remuneration has in that other State.

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

Article 15

Dependent personal services

1. Subject to the provisions of Articles 16, 18 and 19,

salaries, ...

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 in the fiscal year concerned, and

b) the remuneration is paid by, or on behalf of, and 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 in respect of an employment exercised aboard a ship or aircraft in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16

Directors' fees

Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member

of ...

of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17

Artists and Athletes

1. Notwithstanding the provisions of Articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television artists, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised unless the visit to that State is substantially supported, directly or indirectly, by public funds of the other Contracting State.

2. Notwithstanding anything contained in this Convention where the services mentioned in paragraph 1 are provided in a Contracting State by an enterprise of the other Contracting State, the profits derived from providing those services by such enterprise may be taxed in the first-mentioned State unless the enterprise is substantially supported, directly or indirectly, by public funds of the other Contracting State in connection with the provision of such services.

3. For the purpose of this Article, the term "public funds of a Contracting State" shall include public funds created by an administrative subdivision or a local authority thereof.

Article 18 ...

Article 18

Pensions

1. Subject to the provisions of paragraph 1 of Article 19, pensions and other similar remuneration paid to resident of a Contracting State in consideration of part employment shall be taxable only in that 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 State or by a permanent establishment situated therein.

Article 19

Governmental functions

1. Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or an administrative subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof in the discharge of functions of a governmental nature may be taxed in that State.

2. The provisions of Article 15, 16 and 18 shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business carried on by one of the Contracting States or an administrative subdivision or a local authority thereof.

Article 20 ...

Article 20

Professors and Teachers

A professor or teacher who makes a temporary visit to a Contracting State for a period not exceeding two years for the purpose of teaching or conducting research at a university, college, school or other educational institution, owned by the Government or non-profit organizations, and who is, or immediately before such visit was, a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State in respect of remuneration for such teaching or research.

Article 21

Students and business apprentices

(1) 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 Contracting State solely as a student at a recognised university, college, school or cultural establishment in that other Contracting State, or as a business apprentice shall be exempt from tax in that other State on

a) all remittances from abroad for the purpose of his maintenance, education or training, and

b) any remuneration for personal services rendered in that other State supplementing the resources available to him for such purposes.

(2) An individual who is or was a resident of a

Contracting ...

Contracting State immediately before visiting the other Contracting State and is temporarily present in that other State for a period not exceeding two years solely for the purpose of study, research or training as a recipient of a grant, allowance or award from a scientific, educational, cultural, religious or charitable organization or under a technical assistance programme entered into by the Government of a Contracting State shall be exempt from tax in that other State on:

a) the amount of such grant, allowance or award, and

b) all remittances from abroad for the purpose of his maintenance, education or training, and

c) any remuneration for personal services rendered in that other State provided such services are in connection with his study, research or training or are incidental thereto.

(3) An individual who is or was a resident of a Contracting State immediately before visiting the other Contracting State and who is temporarily present in that other State for a period not exceeding twelve months solely as an employee of, or under contract or arrangement with, the Government or an enterprise of that other State 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 the purpose of his maintenance, education or training, and

b) any reasonable remuneration for personal services rendered in that other State, provided such

services are in connection with his studies or training or are incidental thereto.

CHAPTER IV

Method for elimination of double taxation

Article 22

Credit method

It is agreed that double taxation shall be avoided in the following manner:

a) In the case of a resident of Thailand: Thailand, in determining Thai tax in the case of its resident may, regardless of any other provision of this Convention, include in the basis upon which such tax is imposed all items of income. Thailand shall, however, deduct from the tax so calculated the Italian tax on dividends and interest in respect of which the rate of Italian tax is subject to limitations under Articles 10 and 11, on all other items of income which in accordance with the provisions of this Convention may be taxed in Italy, and on all income not mentioned in this Convention which according to the laws of Thailand arises in Italy. The deduction shall not, however, exceed that proportion of Thai tax which such items of net income bear to the entire net income chargeable to Thai tax. For the purpose of determining such entire net income, a loss incurred in any country shall not be taken into account.

b) In the case of a resident of Italy: if a resident of Italy owns items of income that are taxable in

Thailand, ...

Thailand, Italy, in determining its income taxes specified in Article 2 of this Convention, may include in the basis upon which such taxes are imposed the mentioned items of income, unless express provisions of this Convention otherwise provide.

In that case, Italy shall deduct from the taxes so calculated the Thai tax paid in Thailand, but the amount of deduction cannot exceed that proportion of Italian tax which the items of income bear to the entire income.

However, no deduction shall be granted if the item of income is subjected to tax in Italy by a final withholding tax at request of the recipient of income, under Italian laws.

CHAPTER V

Special provisions

Article 23

Non-discrimination

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

In particular, nationals of a Contracting State who are taxable in the other Contracting State shall, if they are residents of that other Contracting State, receive any personal allowances, reliefs and reductions for taxation purposes on account of civil status which that other Contracting State grants to its residents.

2. The ...

2. The term "nationals" means:

a) all individuals possessing the nationality of a Contracting State;

b) all legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State.

3. 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.

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

5. In this Article the term "taxation" means taxes of every kind and description.

Article 24

Mutual agreement procedure

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies

provided ...

provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident. The claim must be lodged within two years from the date of the assessment or of the withholding of tax at the source whichever is the later.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention.

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

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

Article 25

Exchange of information

1. The competent authorities of the Contracting States exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is in accordance

with this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than these concerned with the assessment or collection of the taxes which are the subject of the Convention.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States the obligation:

a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;

b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

c) to supply information 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 26

More favourable domestic law

If the law of either Contracting State existing at present or established hereafter contains a regulation entitling a resident of a Contracting State to a treatment more favourable than is provided for by this Convention, such regulation shall, to the extent that it is more favourable, not be affected by this Convention.

Article 27 ...

Article 27

Diplomatic and Consular Officials

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

CHAPTER VI

Final provisions

Article 28

Entry into force

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Rome as soon as possible.

2. The Convention shall enter into force on the date of the exchange of instruments of ratification and its provisions shall be effective in respect of income or profits assessable for the taxable year or accounting period commencing on or after the first January 1978.

3. Claims for refund or credits arising in accordance with this Convention in respect of any tax payable by residents of any of the Contracting States shall be lodged within two years from the date of entry into force of this Convention or from the date the tax was paid, whichever is later.

Article 29 ...

Article 29

Termination

This Convention shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Convention, through diplomatic channels, not earlier than five years after its entry into force by giving notice of termination at least six months before the end of the calendar year. In such event, the Convention shall cease to be effective in respect of income or profits assessable for the taxable year or accounting period commencing on or after the first January in the calendar year next following that in which the notice of termination is given.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed the present Convention.

Done in duplicate at Bangkok on the day of 22nd December, 1977 in the English, Italian and Thai languages, all texts being equally authoritative, except in the case of doubt when the English text shall prevail.

For the Government of Thailand:

(Wongse Polnikorn)

Deputy Minister of Foreign Affairs

For the Government of Italy:

(Mario Prunas)

Ambassador