



Double Taxation Avoidance Agreement between Thailand and Romania

Completed on June 26, 1996

DEZAN SHIRA & ASSOCIATES

Corporate Establishment, Tax, Accounting & Payroll Throughout Asia

This document was downloaded from ASEAN Briefing (www.aseanbriefing.com) and was compiled by the tax experts at Dezan Shira & Associates (www.dezshira.com).

Dezan Shira & Associates is a specialist foreign direct investment practice, providing corporate establishment, business advisory, tax advisory and compliance, accounting, payroll, due diligence and financial review services to multinationals investing in emerging Asia.

CONVENTION
BETWEEN
THE GOVERNMENT OF THE KINGDOM OF THAILAND
AND
THE GOVERNMENT OF ROMANIA
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 Romania,

Desiring to conclude a Convention for the Avoidance of Double Taxation and the
Prevention of Fiscal Evasion with Respect to Taxes on Income;

Have agreed as follows:

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

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

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

property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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

(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 Romania:

- (i) the tax on income derived by individuals;
- (ii) the tax on profit;
- (iii) the tax on salaries and other similar remunerations;
- (iv) the tax on agricultural income;
- (v) the tax on dividends.
(hereinafter referred to as "Romanian tax").

4. The Convention shall also apply to any identical or substantially similar taxes on income which are imposed after the date of signature of this Convention 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. In this Convention, unless the context otherwise requires:

- (a) the term "Romania" means Romania and used in a geographical sense indicates the territory of Romania including its territorial sea as well as the exclusive economic zone over which Romania exercises sovereignty, sovereign rights and jurisdiction in accordance with the internal law and with the international law, concerning the exploration

and exploitation of the natural, biological and mineral resources existing in the sea waters, sea-bed and subsoil of these waters;

- (b) 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 the international law, has been or may hereafter be designated as an area within which the rights of the Kingdom of Thailand with respect to the sea-bed and sub-soil and their natural resources may be exercised;
- (c) the terms "a Contracting State" and "the other Contracting State" mean, as the context requires, Thailand or Romania;
- (d) the term "person" includes an individual, an estate, a company and any other body of persons which is treated as an entity for tax purposes;
- (e) the term "company" means any body corporate, including a joint company which is incorporated under the Romanian law, 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 "competent authority" means:
 - (i) in the case of Thailand, the Minister of Finance or his authorized representative;
 - (ii) in the case of Romania, the Minister of Finance or his authorized representative;
- (h) the term "national" means:
 - (i) in relation to Thailand, any individual possessing the nationality of Thailand, any legal person, partnership,

association and any other entity deriving its status as such from the laws in force in Thailand;

(ii) in relation to Romania, any citizen of Romania and any juridical person and association deriving its status as such from the laws in force in Romania.

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

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

ARTICLE 4

Resident

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, 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 company is a resident of both Contracting States, it shall be deemed to be a resident of the Contracting State in which it is incorporated or under the law of which it derives its status as a company. If the company under this criterion still is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

ARTICLE 5

Permanent Establishment

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" shall include especially:
 - (a) a place of management;
 - (b) a branch;
 - (c) an office;
 - (d) a factory;
 - (e) a workshop;
 - (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;

- (g) a building site or construction project where such site or project continues for a period of more than six months;
 - (h) an assembly or installation project which exists for more than 6 months;
 - (i) premises used as a sales outlet;
 - (j) a warehouse, in relation to a person providing storage facilities for others;
 - (k) 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.
3. The term "permanent establishment" shall not be deemed to include:
- (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 goods or merchandise belonging to the enterprise displayed in the frame of an occasional temporary fair or exhibition organized by Government of the host country which are sold after the closing of the said fair or exhibition;
 - (e) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information for the enterprise;
 - (f) 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. Notwithstanding the provisions of paragraphs 1 and 2, where a person -- other than an agent of an independent status to whom paragraph 5 applies -- is acting in a Contracting State on behalf of the enterprise of the other Contracting State, the enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State, if such a person:

- (a) has and habitually exercises in the first-mentioned State, an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise;
- (b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders or makes deliveries on behalf of the enterprise; or
- (c) has no such authority, but habitually secures orders in the first mentioned State wholly or almost wholly for the enterprise or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it.

5. 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. For this purpose, an agent shall not be considered to be an agent of an independent status if it carries on in that other State an activity described in paragraph 4 substantially for the enterprise or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it.

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 either company a permanent establishment of the other.

7. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall be deemed to have a permanent establishment in the other State if it collects premiums in the territory of that State or insures risks situated therein through an employee or through a representative who is not an agent of independent status within the meaning of paragraph 5.

ARTICLE 6

Income From Immovable Property

1. Income 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 Convention, 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, boats and aircraft shall not be regarded as immovable property.

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

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

ARTICLE 7

Business Profits

1. The income or profits of an enterprise of a 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 income or 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. Where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the income or profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of a certain percentage of the gross receipt of the enterprise or on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 of this Article shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. No income or profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. Where income or profits include items of income which are dealt with separately in other Articles of this Convention, 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 the other Contracting State, but the tax imposed in that other Contracting State shall be reduced an amount equal to 50 per cent thereof.

3. The provisions of paragraphs 1 and 2 shall likewise apply in respect of participations in pools of any kind by enterprises 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 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 also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that State, but, if the recipient of the dividends is a company the tax so charged shall not exceed:
 - (a) 15 per cent of the gross amount of the dividends if the company paying the dividends engages in an industrial undertaking and the recipient company, excluding partnership, holds directly at least 25 per cent of the capital of the former company;
 - (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. (a) The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" right, mining shares, founders' shares or other rights, not being

debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by, the laws of the State of which the company making the distribution is a resident.

(b) The term "industrial undertaking" means:

1. any undertaking engaged in
 - i) manufacturing, assembling and processing,
 - ii) construction, civil engineering and ship-building,
 - iii) production of electricity, hydraulic power, gas or the supply of water, or
 - iv) agriculture, forestry and fishery and the carrying on of a plantation, and
2. any other undertaking entitled to the privileges accorded under the laws of Thailand on the promotion of industrial investment, and
3. any other undertaking which may be declared to be an "industrial undertaking" for the purpose of this Article by the competent authorities of both Contracting States.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15 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 State may not impose any tax on the dividends paid

by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in the other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State. Nothing in this paragraph shall be construed as preventing either Contracting State from imposing income tax on disposal of profits according to the laws of that State.

ARTICLE 11

Interests

1. Interests 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 State, but if the recipient is the beneficial owner of the interest and is a company which is a resident of the other Contracting State, the tax so charged shall not exceed:

- (a) 10 per cent of the gross amount of the interest if it is received by any financial institution (including an insurance company);
- (b) 20 per cent of the gross amount of the interest in the case of interest on credit sale;
- (c) 25 per cent of the gross amount of the interest in other cases.

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 of the first-mentioned Contracting State.

4. For the purpose of paragraph 3, the term "Government"

- (a) in the case of Thailand, means the Royal Government of Thailand and shall include:

- (i) the Bank of Thailand to the extent that its activity is carried on within the scope of the normal authority of a central bank; and
 - (ii) the local authorities.
- (b) in the case of Romania, means the Government of Romania and shall include:
 - (i) the National Bank of Romania; and
 - (ii) the Romanian Bank for Foreign Trade to the extent that their activities are carried on within the scope of the normal authority of a central bank.

5. The term "interests" 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. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

6. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.

7. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a territorial administrative unit, a local authority or a resident of that State. Where however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

8. 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 Convention.

ARTICLE 12

Commission

1. Commission 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 commission 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 commission.

3. The term "commission" as used in this Article means a payment made to a broker, a general commission agent or to any other person assimilated to such a broker or agent by the taxation law of the Contracting State in which such payment arises.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the commission, being a resident of a Contracting State, has in the other contracting State, in which the commission arises, a permanent establishment with which the activity giving rise to the commission is effectively connected. In such a case, the provisions of Article 7 shall apply.

5. Commission shall be deemed to arise in a Contracting State when the payer is that state itself, a territorial administrative unit, a local authority or a resident of that State. Where, however, the person paying the commission, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the activities

for which the payment is made was incurred, and such commission is borne by such permanent establishment, then such commission shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. 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 commission paid, having regard to the activities 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 13

Royalties

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

2. However, such royalties may be taxed in the Contracting State in which they arise and according to the law of that State, but the tax so charged shall not exceed 15 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the alienation or for the use of, or the right to use, any copyright of literary, artistic or scientific work including copyright of motion picture films or films or tapes used for radio or television broadcasting, any patent, trademarks or other like property or rights, 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 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 provisions of Article 7 shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a territorial administrative unit, a local authority or a resident of that State. When, however, the person paying the royalties, whether he is a resident of the Contracting State or not, has in the other Contracting State a permanent establishment with which the right or property giving rise to the royalties is effectively connected, and such royalties is borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. 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 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 law of each Contracting State due regard being had to the other provisions of this Convention.

ARTICLE 14

Gains From the Alienation of Property

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 that other State.

3. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.

4. Gains from the alienation of any property or assets, other than those referred in paragraphs 1, 2 and 3 of this Article shall be taxable only in the Contracting State of which the alienator is a resident. Nothing in this paragraph shall prevent either Contracting State from taxing the gains or income from the sale or transfer of shares or other securities.

ARTICLE 15

Independent Personal Services

1. Income 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 unless such activities were performed in the other Contracting State. Income in respect of professional services or independent activities performed within that other State may be taxed by that other State.

2. Notwithstanding the provisions of paragraph 1, income derived by a resident of a Contracting State in respect of professional services or other independent activities performed in the other Contracting State shall not be taxable in the other 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,
- (b) the recipient does not maintain a fixed base in the other State, and
- (c) the income is not borne by an enterprise or permanent

establishment situated 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 16

Dependent Personal Services

1. Subject to the provisions of Articles 17, 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 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 employer who is not a resident of the other State, and
 - (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State shall be taxable only in that State.

ARTICLE 17

Directors' Fees

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 State.

ARTICLE 18

Artistes and Athletes

1. Notwithstanding the provisions of Articles 15 and 16, income derived by public entertainer, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are performed.
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, 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.
3. 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 territorial administrative unit, or local authority, or statutory body thereof, in connection with the provisions of such activities.
4. 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 public entertainers or athletes if the visit to that Contracting State is substantially supported by public funds of the other Contracting State, including any territorial administrative unit, or local authority, or statutory body thereof.

ARTICLE 19

Pensions and Annuities

1. Subject to the provisions of paragraph 2 of Article 20, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment, and any annuity paid to such a resident shall be taxable only in that State.

2. The term "annuity" means a stated sum, payable periodically, at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money's worth.

ARTICLE 20

Governmental Functions

1.
 - (a) Remuneration, other than a pension, paid by a Contracting State, or a territorial administrative unit, or a local authority thereof to any individual, in respect of services rendered to that State, or unit, or local authority shall be taxable only in that State.
 - (b) However, such remuneration shall be taxable only in the other Contracting State, if the services are rendered in that State and the individual is a resident of that State, who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of performing the services.

2.
 - (a) Any pension paid by, or out of funds created by a Contracting State, a territorial administrative unit, or a local authority thereof to any individual in respect of services rendered to that State, or a territorial administrative unit, or a local

authority thereof shall be taxable only in that State.

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

The provisions of Articles 16, 17 and 19 shall apply to remuneration and pensions in respect of services rendered in connection with any business carried on by a Contracting State, or a territorial administrative unit, or a local authority thereof.

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 recognised by the competent authority in that other Contracting State, visits that other Contracting State for a period not exceeding two years solely for the purpose of teaching or research or both at such educational institution shall be exempt from tax in that other Contracting State on any remuneration for such teaching or research.
2. This Article shall not apply to income from research, if such research is undertaken not in the public interest but primarily for the benefit of some other private person or persons.

ARTICLE 22

Students

1. Payments which a student, or business apprentice or trainee, who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting State solely for the purpose of his education or training, shall not be taxed in the first-mentioned State, for a period of six years, provided that such payments are made to him from outside that State.
2. Such student, or apprentice or business trainee will also be exempted from any income tax for a period of two years in respect of any remuneration received for services exercised as an

employee in that first State, provided that such services are in connection with his studies, or practical training or are necessary for the purpose of his maintenance.

ARTICLE 23

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 Convention may be taxed in the Contracting State where the income arises.

ARTICLE 24

Elimination of Double Taxation

1. 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, Romanian tax payable in respect of income from sources within Romania 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.
3. In the case of Romania, Thai tax payable in respect of income derived from Thailand shall be allowed as a credit against Romanian tax payable in respect of that income.
4. For the purposes of paragraph 3 of this Article, 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 Convention, or which may be introduced hereafter in modification of, or in addition to the existing laws.

ARTICLE 25

Non-Discrimination

1. The nationals of a Contracting State, whether or not residents of the mentioned Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.
2. The taxation of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.
3. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned 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.
4. In this Article, the term "taxation" means taxes which are the subject of this Convention.

ARTICLE 26

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

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

3. 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 view of application of the provisions of this Convention. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

ARTICLE 27

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes.

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 28

Diplomatic Agents and Consular Officials

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

ARTICLE 29

Entry Into Force

This Convention shall be approved in accordance with the constitutional procedures in force in the respective Contracting States and shall enter into force upon the 30th day after the date of the exchange of notes indicating that the necessary formalities have been completed in both states, and shall have effect:

- (i) in respect of withholding taxes, to the amounts payable on or after the 1st of January, in the calendar year next following that in which the Convention enters into force;
- (ii) in respect of other taxes on income, for the taxable years and

accounting periods, beginning on or after the 1st of January of the calendar year next following that in which the Convention enters into force.

ARTICLE 30

Termination

This Convention shall remain in force indefinitely but either Contracting State may terminate the Convention, through diplomatic channels, by giving to the other Contracting State, written notice of termination on or before June 30 of any calendar year from the fifth year from the year in which the Convention entered into force. In such event, the Convention shall cease to have effect:

- (i) in respect of withholding taxes, to the amount payable on or after the 1st January of the calendar year next following that in which the notice of termination is given;
- (ii) in respect of other taxes on income, for the taxable years and accounting periods beginning on or after January the 1st of the year next following the year in which the notice of termination is given.

In witness whereof, the undersigned duly authorized thereto, have signed this Convention.

Done at Bucharest on 26th June 1996, in two originals, each in the Thai, Romanian, and English languages, the three texts being equally authentic. In case there is any divergence of interpretation between the Thai and Romanian texts, the English text shall prevail.

**FOR THE GOVERNMENT OF THE
KINGDOM OF THAILAND:**

FOR THE GOVERNMENT OF ROMANIA:

Florin Georgescu

Anmuay Viravan

Minister of State and Minister of Finance

**Deputy Prime Minister and Minister of
Foreign affairs**