

Double Taxation Avoidance Agreement between Philippines and Belgium

Completed on January 1, 1981

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The Agreement between the Republic of the Philippines and the Kingdom of Belgium for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income was signed in Manila on October 2, 1976. It entered into force on July 9, 1980, the thirtieth day following the exchange of the relevant instruments of ratification on June 9, 1980. Its provisions on taxes apply on income derived or which accrued beginning January 1, 1981.

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

The Government of the Kingdom of Belgium, and The Government of the Republic of the Philippines,

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:

I. SCOPE OF THE AGREEMENT

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. This Agreement shall apply to taxes on income imposed on behalf of each Contracting State or its political 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 Agreement shall apply are, in particular:
 - a) in Belgium:
 - (i) the individual income tax;
 - (ii) the corporate income tax;
 - (iii) the income tax on legal entities;
 - (iv) the income tax on non-residents;
including the prepayments, the surcharges on these taxes and prepayments, and the communal supplement to the individual income tax, (hereinafter referred to as “Belgian tax”);
 - b) in the Philippines: the income taxes imposed by the Government of the Republic of the Philippines, (hereinafter referred to as “Philippine tax”).
4. This Agreement shall also apply to any identical or substantially similar taxes 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 to each other any changes which have been made in their respective taxation laws.

II. DEFINITIONS

Article 3
GENERAL DEFINITIONS

1. In this Agreement, unless the context otherwise requires:
 - a) the term “Philippines,” when used in a geographical sense, means the territory comprising the Republic of the Philippines;
 - b) the term “Belgium,” when used in a geographical sense, means the Kingdom of Belgium; it includes any area outside the Belgian national sovereignty which has been or may hereafter be designated, under the Belgian laws concerning the continental shelf and in accordance with international law, as

an area within which the rights of Belgium with respect to the seabed and subsoil and their natural resources may be exercised;

- c) the terms “a Contracting State” and “the other Contracting State” mean Belgium or the Philippines as the context requires;
 - d) the term “person” comprises an individual, a company and any other body of persons;
 - e) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes in the Contracting State of which it is a resident;
 - 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 “nationals” means:
 - (i) all individuals possessing the nationality of the citizenship of a Contracting State;
 - (ii) all legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State;
 - h) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
 - i) the term “competent authority” means:
 - (i) in the case of Belgium the Minister responsible for finance or his authorized representative;
 - (ii) in the case of the Philippines, the Secretary of Finance or his authorized representative.
2. In the application of this Agreement by a Contracting State, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the law of that Contracting State relating to the taxes which are the subject of this Agreement.

Article 4 FISCAL DOMICILE

1. For the purposes of this Agreement, the term “resident of a Contracting State” means any person, whose income is subject to tax in that State, by reason of his domicile, residence, place of management or any other criterion of a similar

nature. But this term does not include any person who is liable to tax in that Contracting State in respect only of income from sources therein.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his 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 no 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 States 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 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 Agreement, 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) premises used as a sales outlet;
 - g) a mine, an oil-well, or other place of extraction of natural resources;
 - h) a building site or construction, installation or assembly project or supervisory activities in connection therewith, where such site, project or activity continues for a period of more than six months;
 - i) the furnishing of services including consultancy services by an enterprise through an employee or other personnel where activities of that nature continue within a Contracting State for a period or periods exceeding in the aggregate 183 days within any twelve-month period.
3. The term “permanent establishment” shall not be deemed 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 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.
4. 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 6 applies - shall be deemed to be a permanent establishment in the first-mentioned Contracting State if
- a) he has, and habitually exercises in that first-mentioned Contracting State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; 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 on behalf of the enterprise.
- 5. An insurance enterprise of a Contracting State shall, except with 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 6.
- 6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other 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. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise he would not be considered an agent of an independent status within the meaning of this paragraph.
- 7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

III. TAXATION OF INCOME

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 Agreement 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 property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting immovable 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 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 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 attributable to that permanent establishment or are derived within such other Contracting State from sales of goods or merchandise of the same kind as those sold, or from other business transactions of the same kind as those effected, through the 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 enterprises 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.

However, 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 an apportionment of the total profits of the enterprise to its various parts, nothing in this paragraph shall preclude such 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 laid down in this Article.

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. Notwithstanding the provisions of paragraph 3, no deductions shall be allowed in respect of amounts paid or payable (other than reimbursement of actual expenses) by the permanent establishment to the head office of an enterprise or any of its other offices, by way of:
 - a) royalties, fees or other similar payments in return for the use of patents or other rights;

- b) commission for specific services performed of for management; and
 - c) interest on money lent to the permanent establishment except in the case of a banking institution.
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, than the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8
SHIPPING AND AIR TRANSPORT

1. Profits derived by an enterprise of a Contracting State from the operation of ships or aircraft shall be taxable only in that State.
2. Notwithstanding the provisions of paragraph 1, profits from sources within a Contracting State derived by an enterprise of the other Contracting State from the operation of ships or aircraft in international traffic may be taxed in the first-mentioned State but the tax so charged shall not exceed the lesser of
 - a) one and one-half per cent of the gross revenue derived from sources in that State; and
 - b) the lowest rate of Philippine tax imposed on such gross revenues derived by an enterprise of a third State.
3. The provisions of paragraphs 1 and 2 shall also apply to profits derived from the participation in a pool, a joint business or in an international operating agency.

Article 9
ASSOCIATED ENTERPRISES

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

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

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any 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.

- 2. Where profits on which an enterprise of a Contracting State has been charged to tax in that State are also included in the profits of an enterprise of the other Contracting State and taxed accordingly, and the profits so included are profits which would have accrued to that enterprise of the other State if the conditions made between the enterprises had been those which would have been made between independent enterprises, then the first-mentioned State shall, subject to its law, make such adjustment as it considers appropriate to the amount of tax charged on those profits in the first-mentioned State. In determining such adjustment, due regard shall be had to the other provisions of this Agreement, and for this purpose the competent authorities of the Contracting States shall, if necessary, consult each other.

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, and according to the law of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed
 - a) 15 per cent of the gross amount of such dividends when the same is exempt from tax in the other State, and
 - b) 20 per cent in all other cases.

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

- 3. The term “dividends” as used in this Article means income from shares, “jouissance” shares or “jouissance” rights, mining shares, founders’ shares of other rights, not being debt-claims, participating in the profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the taxation law of the State of which the company

making the distribution is a resident. This term includes income, even when paid in the form of interest, which is taxable as income from capital invested by the members of a company other than a company with share capital which is a resident of Belgium.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient 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 professional 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 a case, the dividends may be taxed by that other State in accordance with its law.
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 outside that other State, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11 INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the law of that State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 15 per cent of the amount of the interest.
3. Notwithstanding the provisions of paragraph 2, if the recipient is the beneficial owner of the interest,
 - a) interest arising in a Contracting State and paid to a resident of the other Contracting State in respect of a bond, debenture or other similar obligation of the government of that Contracting State or of a political subdivision or local authority thereof shall be taxable only in that other State;
 - b) interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other Contracting State if it is paid in respect of a loan made, guaranteed or insured, or a credit extended,

guaranteed or insured, by such institution as is specified and agreed in letters exchanged between the competent authorities of the Contracting States; and

- c) the Philippine tax on interest arising in the Philippines in respect of public issues of bonds, debentures or similar obligations and paid by a company which is a resident of the Philippines to a resident of Belgium shall not exceed 10 per cent of the gross amount of the interest.
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 bonds or debentures, as well as income assimilated to or taxed in the same way as income from money lent by the taxation law of the State in which the income arises including interest on deferred payments. However, the term “interest” does not include for the purpose of this Article, interest treated as dividends under the second sentence of paragraph 3 of Article 10.
5. The provisions of paragraphs 1, 2 and 3 shall not apply if the recipient 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 professional 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 a case, the provisions of Article 7 or Article 14 of this Agreement, as the case may be, shall apply.
6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political 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 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 State.
2. However, such royalties may also be taxed in the Contracting State in which they arise, and according to the law of that State, but, if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed:
 - a) in the case of the Philippines, 15 per cent of the gross amount of the royalties, where the royalties are paid by an enterprise registered with the Philippine Board of Investments and engaged in preferred areas of activities and also royalties in respect of cinematographic films or tapes for television or broadcasting;
 - b) in all other cases, 25 per cent of the gross amount of the royalties.
3. The term “royalties” as used in this Article means payments of any kind as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematographic films or tapes for television or 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 experience.
4. The provisions of paragraphs 1 and 2 of this Article shall not apply if the recipient of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein, or performs in that other State professional services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 14 of this Agreement, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the contract under which the royalties are paid was concluded, 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.
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 Agreement.

Article 13
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 the other State. However, gains from the alienation of ships and aircraft operated in international traffic and of movable property pertaining to the operation of such ships and aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
3. Gains from the alienation of shares of stock issued by a company which is a resident of a Contracting State may be taxed in that Contracting State.
4. Gains from the alienation of any property other than those mentioned in paragraphs 1, 2 and 3 shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14
PROFESSIONAL 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. However, such income may be taxed in the other Contracting State:
 - a) if the recipient has a fixed base regularly 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 the recipient is present in the other Contracting State for a period or periods amounting to an exceeding in the aggregate 120 days in the calendar year.

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

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 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 calendar year concerned, and
 - b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
 - c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration 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

1. Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or a similar organ of a company with share capital which is a resident of the other Contracting State may be taxed in that other State.
2. The remuneration which a person to whom paragraph 1 applies derives from the company in respect of the discharge of day-to-day functions of a managerial or technical nature may be taxed in accordance with the provisions of Article XV.

Article 17
ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 14 and 15 income derived by entertainers, 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 as such of an entertainer or athlete accrues not to that 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 performed.
3. Notwithstanding the provisions of paragraphs 1 and 2 income derived from activities performed in a Contracting State by entertainers and athletes shall be exempt from tax in that Contracting State if the visit to that State is substantially supported by public funds or sponsored by the other Contracting State or by any political subdivision, local authority or statutory body thereof, or if such activities are performed for a non-profit organization no part of the income of which was payable to, or was otherwise available for, the personal benefit of any proprietor, member or shareholder thereof, if the organization is certified as qualifying under this provision by the competent authority of the other Contracting State.

Article 18
PENSIONS

Subject to the provisions of paragraph 2 of Article 19, pensions and similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State. However, pensions paid out of pension plans of Philippine enterprises, not registered under Philippine law may be taxed in the Philippines.

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 any individual in respect of services rendered to that State or political subdivision or local authority thereof 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 recipient is a resident of that other Contracting 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 or a political subdivision or a local authority thereof to any individual in respect of services rendered to that State or political subdivision or 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 recipient is a national of and a resident of that State.
3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with any business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20
PROFESSORS AND TEACHERS

Remuneration which a professor or teacher who is, or immediately before was, a resident of a Contracting State and who visits the other Contracting State for a period not exceeding two years for the purpose of carrying out advanced study or research or for teaching at a university or other recognized educational institution receives for such work shall not be taxed in that other State.

Article 21
STUDENTS AND TRAINEES

1. An individual who 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 university or other recognized educational institution in that other State or as a business apprentice shall, from the date of his first arrival in that other State in connection with that visit, be exempt from tax in that other State:
- a) on all remittances from abroad for purposes of his maintenance, education or training; and
 - b) for a period not exceeding three years, on any remuneration not exceeding BF 200,000 or the equivalent in Philippine currency, for each calendar year, for personal services rendered in that other Contracting State with a view to supplementing the resources available to him for such purposes.
2. An individual who was a resident of a Contracting State immediately before visiting the other Contracting State and is temporarily present in that other State solely for the purpose of study, research or training as a recipient of a grant,

allowance or award from a scientific, educational, religious or charitable organization or under a technical assistance programmed entered into by the Government of a Contracting State shall, from the date of his first arrival in that other State in connection with that visit, be exempt from tax in that other State;

- a) on the amount of such grant, allowance or award; and
- b) on all remittances from abroad for the purposes of his maintenance, education or training;

Article 22
OTHER INCOME

Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State except that if such income is derived from sources within the other Contracting State, it may also be taxed in that other State.

IV. ELIMINATION OF DOUBLE TAXATION

Article 23

Double taxation shall be avoided as follows:

1. In the case of Belgium:
 - a) Where a resident of Belgium derives income which may be taxed in the Philippines in accordance with the provisions of Articles 6 to 22 of the Agreement and which is not subject to the provisions of subparagraphs (b) and (c) below, Belgium shall exempt such income from tax but may, in calculating the amount of tax on the remaining income of that resident, apply the rate of tax which would have been applicable if such income had not been exempted.
 - b) Where a resident of Belgium derives:
 - dividends dealt with in paragraph 2 of Article 10 and not covered by subparagraph (c) below,
 - interest dealt with in paragraphs 2, 3(c) or 7 of Article 11,
 - royalties dealt with in paragraph 2 or 6 of Article 12,

Belgium shall allow a credit against its tax charged on such income of an amount equal to 15 per cent of the gross amount of the dividends, interest or royalties which is included in the taxable base of the said resident.

However, the credit shall be given in an amount of 20 per cent if such dividends, interest or royalties are paid by an enterprise registered with the Philippine Board of Investments and engaged in preferred areas of activities.

- c) Where a company which is, a resident of Belgium owns share or other rights in a company with share capital which is a resident of the Philippines and which is subject to Philippine tax on its profits, the dividends which are paid to it by the latter company and which may be taxed in the Philippines in accordance with paragraph 2 of Article 10, shall be exempt from the corporate income tax in Belgium to the extent that exemption would have been accorded if the two companies had been residents of Belgium.
- d) Where, in accordance with Belgian law, losses of a Belgian enterprise attributable to a permanent establishment situated in the Philippines have been effectively deducted from the profits of that enterprise for its taxation in Belgium, the exemption provided in subparagraph (a) shall not apply in Belgium to the profits of other taxable periods attributable to the establishment to the extent that those profits have not been taxed by the Philippines by reason of compensation for the said losses.

2. In the case of the Philippines:

Subject to the provisions of the laws of the Philippines relating to the allowance as a credit against Philippine tax of taxes paid in a territory outside the Philippines, Belgian tax payable under the laws of Belgium and in accordance with this Agreement, whether directly or by deduction, in respect of income from sources within Belgium shall be allowed, where similar tax is imposed in the Philippines, as a credit against Philippine tax payable in respect of that income. The deductions shall not, however, exceed that part of the Philippine income tax, as computed before the deduction is given, which is appropriate to the income which may be taxed in Belgium.

V. SPECIAL PROVISIONS

Article 24

NON-DISCRIMINATION

- 1. The nationals of a Contracting State who are residents of one of the Contracting States shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.
- 2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

This provisions 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.

3. Except where the provisions of Article 9, or paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.
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 of any requirement connection 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. Nothing in this Article shall be construed as preventing Belgium:
 - a) from taxing the total amount of the profits attributable to a permanent establishment in Belgium of a company being a resident of the Philippines or of an association having its place of effective management in the Philippines at the rate of tax provided by the Belgian law, but this rate may not exceed the maximum rate applicable to the whole or a portion of the profits of companies which are residents of Belgium;
 - b) from imposing the movable property prepayment on dividends derived from a holding which is effectively connected with a permanent establishment or a fixed base maintained in Belgium by a company which is a resident of the Philippines or by an association which has its place of effective management in the Philippines and is taxable as a body corporate in Belgium.
6. In this Article the term “taxation” means taxes of every kind and description.
7. Notwithstanding the provisions of the preceding paragraph, nothing in this Agreement shall be construed as preventing the Philippines from limiting to its nationals the enjoyment of tax incentives granted by law.

Article 25
MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both the Contracting States result or will result for him in taxation not in accordance

with this Agreement, he may, saving the remedies provided by the national laws of those States, present to the competent authority of the Contracting State of which he is a resident an application in writing stating the grounds for claiming the revisions of such taxation. This case must be presented within two years from the first notification of the action which gives rise to taxation not in accordance with the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Agreement.
3. The competent authorities of the Contracting State shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the application of the Agreement. In particular, the competent authorities of the Contracting States shall endeavour to agree:
 - a) to the same attribution of profits to a resident of a Contracting State and its permanent establishment situated in the other Contracting State;
 - b) to the same allocation of income between a resident of a Contracting State and any associated person provided for in Article 9.
4. The competent authorities of the Contracting States shall agree on the necessary administrative measures to carry out the provisions of the Agreement and particularly on the proofs to be furnished by residents of either Contracting State in order to benefit in the other Contracting State from the exemptions and reductions provided for in the Agreement.

Article 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information (which is at their disposal under their respective tax administrations and those which may be procured by special inquiry) as is necessary for the carrying out of this Agreement and of the domestic laws of the Contracting States concerning taxes covered by this Agreement, in particular, for the prevention of fraud or evasion of such taxes. Any information so exchanged shall be treated as secret, but may be disclosed to any persons (including a court or administrative body) concerned with the assessment, collection, or enforcement of or prosecution in respect of the taxes which are the subject of the Agreement.
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 of the administrative practice of that of 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 processing, or information, the disclosure of which would be contrary to public policy.

Article 27

AID IN RECOVERY OF TAXES

1. The Contracting States shall lend aid and assistance to each other in order to notify and recover taxes mentioned in Article 2 as well as surcharges, additions interest, costs, and fines of a non-penal nature.
2. On the request of the competent authority of a Contracting State, the competent authority of the other Contracting State shall secure, in accordance with the legal provisions and regulations applicable to the notification and recovery of the said taxes of the latter State, the notification and recovery of fiscal debt-claims referred to in paragraph 1, which are due in the first-mentioned State. Such debt-claims shall not be considered as preferential claims in the requested State and that State shall not be obliged to apply any means of enforcement which are not authorized by the legal provisions and regulations of the requesting State.
3. Requests referred to in paragraph 2 shall be supported by an official copy of the instrument permitting the execution in the requesting State and, where appropriate, by an official copy of any final administrative or judicial decision.
4. With regard to fiscal debt-claims which are open to appeal, the competent authority of a Contracting State may, in order to safeguard its rights, request the competent authority of the other Contracting State to take the protective measures provided for in its legislation. The provisions of paragraphs 1 to 3 shall apply, *mutatis mutandis*, to such measures.
5. The second sentence of paragraph 1 of Article 26 shall also apply to any information which, by virtue of this Article is supplied to the competent authority of the requested State.

Article 28

MISCELLANEOUS

1. The provisions of the Agreement shall not limit the taxation, in accordance with Belgian Law, of a company which is a resident of Belgium, in the event of the purchase of its own shares or in the event of the distribution of its assets.

2. The provisions of the Agreement shall not be construed as:
 - a) preventing the Philippines from taxing its own citizens in accordance with Philippine law;
 - b) limiting the right of the Philippines to impose a tax on sale or transfer of shares of stock in a company which is a resident of the Philippines.
3. Nothing in this Agreement shall affect diplomatic or consular privileges under the general rules of international law or under the provisions of special agreements.
4. Notwithstanding Article 4 of this Agreement, an individual who is a member of a diplomatic, consular or permanent mission of a Contracting State which is situated in the other Contracting State or in a third State shall be deemed for the purposes of this Agreement to be a resident of the sending State if he is liable in the sending State to the same obligations in relation to tax on his total world income as are residents of that sending State.
5. This Agreement shall not apply to International Organizations, to organs or officials thereof and to persons who are members of a diplomatic, consular or permanent mission of a third State, being present in a Contracting State and who are not liable in either Contracting State to the same obligations in relation to tax on their total world income as are residents thereof.
6. The competent authorities of the Contracting States shall communicate directly with each other for the application of the Agreement.

VI. FINAL PROVISIONS

Article 29 ENTRY INTO FORCE

1. This Agreement shall be ratified and the instruments of ratification shall be exchanged at as soon as possible.
2. The Agreement shall enter into force 30 days after the date of exchange of instruments of ratification, and its provisions shall have effect:
 - a) with respect to all tax due at source, on income credited or payable on or after 1 January in the calendar year immediately following that in which the Agreement enters into force;
 - b) with respect to all tax other than tax due at source, on income of any accounting period beginning on or after 1 January in the calendar year immediately following that in which the Agreement enters into force.

**Article 30
TERMINATION**

This Agreement shall remain in force indefinitely but either of the Contracting States may, on or before the thirtieth day of June in any calendar year from the fifth year following that in which the instruments of ratification have been exchanged, give to the other Contracting State, through diplomatic channels, written notice of termination and, in such event, the Agreement shall cease to have effect:

- a) with respect to all tax due at source, on income credited or payable on or after 1 January in the calendar year immediately following that in which the notice of termination is given;
- b) with respect to all tax other than tax due at source, on income of any accounting period beginning on or after 1 January in the calendar year immediately following that in which the notice of termination is given.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

DONE at Manila this 2nd day of October 1976 in duplicate, in the English language.

(Sgd.) CESAR VIRATA

FOR THE GOVERNMENT OF
THE REPUBLIC OF THE
PHILIPPINES

(Sgd.) W. DE CLERQ

FOR THE GOVERNMENT OF
THE KINGDOM OF BELGIUM

PROTOCOL

With reference to the Agreement between the Kingdom of Belgium and the Republic of the Philippines for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income signed on this date, in particular with regard to Article 8 thereof, the Contracting States agree that where under any Convention concluded by the Philippines for the avoidance of double taxation of income, a resident of a country of Europe or North America is exempt or entitled to a relief from the Philippine business tax on gross receipts relating to the operation of ships or aircraft in international traffic, the Government of the Republic of the Philippines will reconsider, on the basis of reciprocity, the case of airline and shipping companies which are residents of Belgium with a view to granting them a similar treatment for the purpose of the said Philippine tax.

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

DONE in duplicate at Manila on October 2, 1976 in the English language.

(Sgd.) W. DE CLERQ

FOR THE GOVERNMENT OF
THE KINGDOM OF BELGIUM

(Sgd.) CESAR VIRATA

FOR THE GOVERNMENT OF
THE REPUBLIC OF THE
PHILIPPINES

PROTOCOL

At the moment of signing the Agreement between the Kingdom of Belgium and the Republic of the Philippines for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed that the following provisions shall form an integral part of the said Agreement:

With respect to paragraph 1 of Article 7, it is understood that profits derived by an enterprise of a Contracting State within the other Contracting State from sales of goods or merchandise of the same kind as those sold, or from other business transactions of the same kind as those effected, through the permanent establishment situated therein, may be taxed in such other Contracting State if the permanent establishment had intervened in such sales or transactions or if such sales or transactions occur regularly.

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

DONE in duplicate at Manila on October 2, 1976 in the English language.

(Sgd.) W. DE CLERQ

FOR THE GOVERNMENT OF
THE KINGDOM OF BELGIUM

(Sgd.) CESAR VIRATA

FOR THE GOVERNMENT OF
THE REPUBLIC OF THE
PHILIPPINES