

**SYNTHESISED TEXT OF THE MLI AND THE CONVENTION BETWEEN
THE REPUBLIC OF AUSTRIA AND THE KINGDOM OF THAILAND
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME AND CAPITAL**

General disclaimer on the Synthesised text document

This document presents the synthesised text for the application of the Convention between the Republic of Austria and the Kingdom of Thailand for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital signed on 8 May 1985 (the “Convention”), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by the Republic of Austria on 7 June 2017 and by the Kingdom of Thailand on 9 February 2022 (the “MLI”).

The document was prepared on the basis of the MLI position of the Republic of Austria submitted to the Depository upon ratification on 22 September 2017, as updated upon notification of extension of the list of agreements on 30 August 2023, and the Kingdom of Thailand submitted to the Depository upon ratification on 31 March 2022. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on this Convention.

The authentic legal texts of the Convention and the MLI take precedence and remain the legal texts applicable.

The provisions of the MLI that are applicable with respect to the provisions of the Convention are included in boxes throughout the text of this document in the context of the relevant provisions of the Convention. The boxes containing the provisions of the MLI have generally been inserted in accordance with the ordering of the provisions of the OECD Model Tax Convention 2017.

Changes to the text of the provisions of the MLI have been made to conform the terminology used in the MLI to the terminology used in the Convention (such as “Covered Tax Agreement” and “Convention”, “Contracting Jurisdictions” and “Contracting States”), to ease the comprehension of the provisions of the MLI. The changes in terminology are intended to increase the readability of the document and are not intended to change the substance of the provisions of the MLI. Similarly, changes have been made to parts of provisions of the MLI that describe existing provisions of the Convention: descriptive language has been replaced by legal references of the existing provisions to ease the readability.

In all cases, references made to the provisions of the Convention or to the Convention must be understood as referring to the Convention as modified by the provisions of the MLI, provided such provisions of the MLI have taken effect.

References

The authentic legal texts of the MLI and the Convention can be found on the webpage of the Federal Ministry of Finance (<https://www.bmf.gv.at/>).

The MLI position of the Republic of Austria submitted to the Depository upon ratification on 22 September 2017, as updated upon notification of extension of the list of agreements on 30 August 2023, and the MLI position of the Kingdom of Thailand submitted to the Depository upon ratification on 31 March 2022 can be found on the MLI Depository (OECD) webpage (<http://www.oecd.org/tax/treaties/beps-mli-signatories-and-parties.pdf>).

Disclaimer on the entry into effect of the provisions of the MLI

Entry into Effect of the MLI Provisions

The provisions of the MLI applicable to this Convention do not take effect on the same dates as the original provisions of the Convention. Each of the provisions of the MLI could take effect on different dates, depending on the types of taxes involved (taxes withheld at source or other taxes levied) and on the choices made by the Republic of Austria and the Kingdom of Thailand in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 22 September 2017, as updated upon notification of extension of the list of agreements on 30 August 2023, for the Republic of Austria and 31 March 2022 for the Kingdom of Thailand.

Entry into force of the MLI: 1 July 2018 for the Republic of Austria and 1 July 2022 for the Kingdom of Thailand.

Notification of the updated positions of the Republic of Austria by the Depository: 30 August 2023.

This document provides specific information on the dates on or after which each of the provisions of the MLI has effect with respect to the Convention throughout this document.

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

The Republic of Austria and the Kingdom of Thailand, **[REPLACED by paragraph 1 of Article 6 of the MLI]** [desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,]

The following paragraph 1 of Article 6 of the MLI replaces the text referring to an intent to eliminate double taxation in the preamble of this Convention:¹

ARTICLE 6 OF THE MLI – PURPOSE OF A COVERED TAX AGREEMENT

Intending to eliminate double taxation with respect to the taxes covered by this Convention without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Convention for the indirect benefit of residents of third jurisdictions),

Have agreed as follows:

CHAPTER I
SCOPE OF THE CONVENTION

Article 1
Personal Scope

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

Article 2
Taxes Covered

1. This Convention shall apply to taxes on income and on capital imposed on behalf of a contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.
3. The existing taxes to which the Convention shall apply are:
 - a) in the case of Thailand:
 - i) the income tax;
 - ii) the petroleum income tax; and

¹ In accordance with paragraphs 3 and 5 of Article 35 of the MLI, paragraph 1 of Article 6 of the MLI has effect in the Republic of Austria with respect to this Convention:

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2024; and
- b) with respect to all other taxes levied by the Republic of Austria, for taxes levied with respect to taxable periods beginning on or after 1 January 2025;

and,

In accordance with paragraph 1 of Article 35 of the MLI, paragraph 1 of Article 6 of the MLI has effect in the Kingdom of Thailand with respect to this Convention:

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2024; and
- b) with respect to all other taxes levied by the Kingdom of Thailand, for taxes levied with respect to taxable periods beginning on or after 30 May 2024.

- iii) the local development tax.
(hereinafter referred to as "Thai tax");
- b) in the case of Austria:
 - i) the income tax (die Einkommensteuer);
 - ii) the corporation tax (die Körperschaftsteuer);
 - iii) the directors tax (die Aufsichtsratsabgabe);
 - iv) the capital tax (die Vermögensteuer);
 - v) the tax on property eluding death duties (die Abgabe von Vermögen, die der Erbschaftsteuer entzogen sind);
 - vi) the tax on commercial and industrial enterprises, including the tax levied on the sum of wages (die Gewerbesteuer einschließlich der Lohnsummensteuer);
 - vii) the land tax (die Grundsteuer);
 - viii) the tax on agricultural and forestry enterprises (die Abgabe von land- und forstwirtschaftlichen Betrieben);
 - ix) the contributions from agricultural and forestry enterprises to the fund for the equalization of family burdens (die Beiträge von land- und forstwirtschaftlichen Betrieben zum Ausgleichsfonds für Familienbeihilfen);
 - x) the tax on the value of vacant plots (die Abgabe vom Bodenwert bei unbebauten Grundstücken)
(hereinafter referred to as "Austrian tax").

4. The Convention shall also apply to any identical or substantially similar taxes on income or on capital 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.

CHAPTER II DEFINITIONS

Article 3

General Definitions

1. For the purpose of this Convention, unless the context otherwise requires:
 - a) the term "Thailand" means the Kingdom of Thailand and includes any area adjacent to the territorial waters of the Kingdom of Thailand which by Thai legislation, and in accordance with international law, has been or may hereafter be designated as an area within which the rights of the Kingdom of Thailand with respect to the sea bed and sub-soil and their natural resources may be exercised;
 - b) the term "Austria" means the Republic of Austria;
 - c) the terms "a Contracting State" and "the other Contracting State" mean Thailand or Austria, as the context requires;
 - 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 or any entity which is treated as a body corporate under the taxation laws of the respective Contracting States;
 - f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
 - g) the term "tax" means Thai tax or Austrian tax as the context requires;
 - h) the term "national" means:
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) any legal person, partnership, association and any other entity deriving its status as such from the laws in force in a Contracting State;
 - i) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except where the ship or aircraft is operated solely between places in the other Contracting State;
 - j) the term "competent authority" means, in the case of Thailand, the Minister of Finance or his authorised representative and, in the case of Austria, the Federal Minister of Finance.

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

Article 4

Resident

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of incorporation, place of management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

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

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement.

Article 5

Permanent Establishment

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

2. The term "permanent establishment" includes especially:

- a) a place of management,
- b) a branch,
- c) an office,
- d) a factory,
- e) a workshop,
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- g) a building site, a construction, assembly or installation project or supervisory activities in connexion therewith or the furnishing of services, including consultancy services, by a resident of one of the Contracting States through employees or other personnel, provided that such site, project or activities of that nature continue within the other Contracting State for a period or periods aggregating more than six months in any twelve-month period.

3. **[REPLACED by paragraph 2 of Article 13 of the MLI]** [Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

- a) the use of facilities solely for the purpose of storage, display, or delivery of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display, or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research, or for similar activities which have a preparatory or auxiliary character, for the enterprise.]

The following paragraph 2 of Article 13 of the MLI replaces paragraph 4 of Article 5 of this Convention:²

ARTICLE 13 OF THE MLI - ARTIFICIAL AVOIDANCE OF PERMANENT ESTABLISHMENT STATUS THROUGH THE SPECIFIC ACTIVITY EXEMPTIONS (*Option A*)

Notwithstanding Article 5 of this Convention, the term “permanent establishment” shall be deemed not to include:

- a) the activities specifically listed in paragraph 4 of Article 5 of this Convention as activities deemed not to constitute a permanent establishment, whether or not that exception from permanent establishment status is contingent on the activity being of a preparatory or auxiliary character;
- b) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any activity not described in subparagraph a);
- c) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) and b),

provided that such activity or, in the case of subparagraph c), the overall activity of the fixed place of business, is of a preparatory or auxiliary character.

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

- a) he 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) he 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) he 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 Contracting State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business. For this purpose, an agent shall not be considered to be an agent of an independent status if it carries on in that other State an activity described in paragraph 4 wholly or almost wholly for the enterprise or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it.

6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to reinsurance, be deemed to have a permanent establishment in the other 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.

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.

CHAPTER III
TAXATION OF INCOME

² In accordance with paragraphs 3 and 5 of Article 35 of the MLI, paragraph 2 of Article 13 of the MLI has effect in the Republic of Austria with respect to this Convention:

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2024; and
- b) with respect to all other taxes levied by the Republic of Austria, for taxes levied with respect to taxable periods beginning on or after 1 January 2025;

and,

In accordance with paragraph 1 of Article 35 of the MLI, paragraph 2 of Article 13 of the MLI has effect in the Kingdom of Thailand with respect to this Convention:

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2024; and
- b) with respect to all other taxes levied by the Kingdom of Thailand, for taxes levied with respect to taxable periods beginning on or after 30 May 2024.

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 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 State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the 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 determining 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 attributable to a permanent establishment on the basis of a certain percentage of the gross receipts of the enterprise or on the basis of an apportionment of total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed on such basis as may be customary; the method adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. No 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.
8. The term "profits" as used in this Article includes the profits derived from a participation in a sleeping partnership (Stille Gesellschaft) created under Austrian law.

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 State.
2. Income derived by an enterprise of a Contracting State from the operation of ships in international traffic may be taxed in the other Contracting State, but the tax imposed in that other State shall be reduced by an amount equal to 50% 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 tax accordingly.

*The following paragraph 1 of Article 17 of the MLI applies and supersedes the provisions of this Agreement:*³

ARTICLE 17 OF THE MLI – CORRESPONDING ADJUSTMENTS

Where a Contracting State includes in the profits of an enterprise of that Contracting State — and taxes accordingly — profits on which an enterprise of the other Contracting State has been charged to tax in that other Contracting State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Contracting State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Contracting State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of the Agreement and 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 of the dividends is a company, excluding a partnership, which holds directly at least 25% of the capital of the former company, the tax so charged shall not exceed:
 - a) in the case of Thailand:
 - i) 15% of the gross amount of the dividends if the company paying the dividends engages in an industrial undertaking;
 - ii) 20% of the gross amount of the dividends in other cases;
 - b) in the case of Austria: 10% of the gross amount of the dividends.

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

³ In accordance with paragraph 3 and 5 of Article 35 of the MLI, paragraph 1 of Article 17 of the MLI has effect in the Republic of Austria with respect to this Agreement:

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2024; and
- b) with respect to all other taxes levied by the Republic of Austria, for taxes levied with respect to taxable periods beginning on or after 1 January 2025;

and,

In accordance with paragraph 1 of Article 35 of the MLI, paragraph 1 of Article 17 of the MLI has effect in the Kingdom of Thailand with respect to this Agreement:

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2024; and
- b) with respect to all other taxes levied by the Kingdom of Thailand, for taxes levied with respect to taxable periods beginning on or after 30 May 2024.

3. a) The term "dividend" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, founders' shares or other rights, not being debt-claims participating in profits, as well as income from other corporate rights which its 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 authority in Thailand.

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 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

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 the State.

Article 11

Interest

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

2. However, such interest may be taxed in the Contracting State in which it arises, and according to the laws of that Contracting State, but, if the recipient of the interest is a company which is a resident of the other Contracting State, the tax so charged shall not exceed:

- a) 10% of the gross amount of the interest if it is received by any financial institution (including an insurance company);
- b) in all other cases, 25% of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be exempt from tax in that State if the interest is received by:

- i) the other Contracting State, a political subdivision, a local authority or a local administration thereof, or
- ii) in the case of Thailand, the "Bank of Thailand", and in the case of Austria, the "Oesterreichische Nationalbank" or
- iii) any financial institution wholly owned by the other Contracting State, a political subdivision, a local authority or a local administration thereof, as may be agreed from time to time between the Governments of the two Contracting States.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as income assimilated to income from money lent by the taxation laws of the Contracting State in which the income arises.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

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

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 laws of that Contracting State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 15% 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 the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State if 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 or fixed base in connection with which the obligation to pay the royalties was incurred, and those royalties are borne by that permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

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

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 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 sale or transfer of shares or other securities may be taxed in the Contracting State of which the company the shares of which are sold or the debtor of the securities which are sold is a resident.
5. Gains from the alienation of any property or assets, other than those referred to in paragraphs 1, 2, 3 and 4 of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

Independent Personal Service

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 in 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 90 days in the fiscal year concerned, and
 - b) the recipient does not maintain a fixed base in the other State, and
 - c) the income is not borne by an enterprise or a 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 15

Dependent Personal Service

1. Subject to the provisions of Articles 16, 17, 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 fiscal 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 an enterprise of the other State or 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 16

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 17

Artists and Athletes

1. Notwithstanding the provisions of Articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television artists, or musicians, or 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, 14 and 15, 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 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 State unless the enterprise is substantially supported from the public funds of the other Contracting State, including any political subdivision, local authority or statutory body thereof, in connection with the provision 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 political subdivision, local authority or statutory body thereof.

Article 18

Pensions

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

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

Article 19

Governmental Function

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

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

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

2. The provisions of paragraph 1 of this Article shall also apply to remuneration derived by members of permanent delegations of foreign commerce of a Contracting State in the other Contracting State.

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

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

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

Article 20

Students and Trainees

An individual who, immediately before visiting a Contracting State, was a resident of the other Contracting State and whose visit to the first-mentioned Contracting State is solely for the purpose of:

- a) studying at a university, college or school or other recognised educational institution, or
- b) securing training to qualify him to practice a profession or trade, or
- c) studying or carrying out research as a recipient of a grant, allowance or award from a governmental, religious, charitable, scientific, literary or educational organization,

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

- i) remittance from abroad for the purpose of this maintenance, education, study, research or training;
- ii) the grant, allowance or award; and
- iii) income which he derives from an employment which he exercises in this State for the purposes of practical training for not longer than a total of six months in any taxable year.

Article 21

Professors, Teachers and Researchers

1. An individual who, immediately before making a visit to the other Contracting State, was a resident of a 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 only apply to income from research if such research is undertaken by the individual for the public interest and not primarily for the benefit of some other private person or persons.

Article 22

Other Income

Items of income of a resident of a Contracting State not dealt with in the foregoing Articles may be taxed in the other Contracting State but only if it arises in that other State. If it does not so arise it shall be taxable only in the State of which the recipient is a resident.

CHAPTER IV

TAXATION OF CAPITAL

Article 23

Capital

1. Capital represented by immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.
2. Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise, or by movable property pertaining to a fixed base used for the performance of professional services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.
3. Ships or aircraft operated in international traffic by an enterprise of a Contracting State and movable property pertaining to the operation of such ships and aircraft shall be taxable only in that State.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

CHAPTER V

METHODS FOR ELIMINATION OF DOUBLE TAXATION

Article 24

Elimination of Double Taxation

1. The laws in force in either of the Contracting States shall continue to govern the taxation of income or capital in the respective Contracting States except where express provisions to the contrary are made in this Convention.
2. In the case of Thailand, double taxation shall be avoided as follows:
 - a) **[REPLACED by paragraph 6 of Article 5 of the MLI]** [Where a resident of Thailand owns capital which, in accordance with the provisions of this Convention, may be taxed in Austria, Thailand shall exempt such capital from tax.]

The following paragraph 6 of Article 5 of the MLI replaces lit. a) of paragraph 2 of Article 24 of this Convention with respect to the residents of Thailand.⁴

⁴ In accordance with paragraph 1 of Article 35 of the MLI, paragraph 6 of Article 5 of the MLI has effect with respect to this Convention:

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2024; and
- b) with respect to all other taxes, for taxes levied with respect to taxable periods beginning on or after 30 May 2025.

ARTICLE 5 OF THE MLI – APPLICATION OF METHODS FOR ELIMINATION OF DOUBLE TAXATION
(Option C)

Where a resident of Thailand derives income or owns capital which may be taxed in Austria in accordance with the provisions of this Convention (except to the extent that these provisions allow taxation by Austria solely because the income is also income derived by a resident of Austria), Thailand shall allow

- i) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Austria;
- ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in Austria.

Such deduction shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable to the income or the capital which may be taxed in Austria.

Where in accordance with any provision of this Convention income derived or capital owned by a resident of Thailand is exempt from tax in Thailand, Thailand may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

- b) Where a resident of Thailand derives income which, in accordance with the provisions of this Convention, may be taxed in Austria, Thailand shall allow as a deduction from Thai tax on the income of that resident, an amount equal to the tax paid in Austria. Such deduction shall not, however, exceed that part of Thai tax, as computed before the deduction is given which is appropriate to the income derived from Austria.

3. **[REPLACED by paragraph 2 of Article 5 of the MLI]** [In the case of Austria, double taxation shall be avoided as follows:

- a) Where a resident of Austria owns capital which in accordance with the provisions of this Convention may be taxed in Thailand, Austria shall exempt such capital from tax.
- b) Where a resident of Austria derives income which, in accordance with the provisions of this Convention, may be taxed in Thailand, Austria shall, subject to the provisions of subparagraphs c and d of this paragraph exempt such income from tax but may, in calculating tax on the remaining income of that resident, apply to the rate of tax which would have been applicable if the exempted income had not been so exempted.
- c) Where a resident of Austria derives income which, in accordance with the provisions of paragraph 2 of Article 8, paragraph 2 of Article 10, paragraphs 2 and 3 of Article 11, paragraph 2 of Article 12 and paragraph 4 of Article 13 may be taxed in Thailand, Austria shall allow as a deduction from Austrian tax on the income of that resident an amount equal to the tax paid in Thailand. Such deduction shall not, however, exceed that part of Austrian tax, as computed before the deduction is given, which is appropriate to the income derived from Thailand. For the application of this subparagraph the tax paid in Thailand on dividends, interest or royalties shall be deemed to have been paid at a rate of 25% of the gross amount of the income.
- d) Notwithstanding the provision of subparagraph c, dividends paid by a company which is a resident of Thailand to a company which is a resident of Austria which holds directly at least 25% of the capital of the paying company shall be exempt from tax in Austria.]

*The following paragraph 2 of Article 5 of the MLI applies to paragraph 3 of Article 24 of this Convention with respect to the residents of Austria:*⁵

⁵ In accordance with paragraphs 3 and 5 of Article 35 of the MLI, paragraph 2 of Article 5 of the MLI has effect with respect to this Convention:

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2024; and
- b) with respect to all other taxes, for taxes levied with respect to taxable periods beginning on or after 1 January 2025.

ARTICLE 5 OF THE MLI – APPLICATION OF METHODS FOR ELIMINATION OF DOUBLE TAXATION
(Option A)

Paragraph 3 of Article 24 of this Convention shall not apply where Thailand applies the provisions of this Convention to exempt such income or capital from tax or to limit the rate at which such income or capital may be taxed. In the latter case, Austria shall allow as a deduction from the tax on the income or capital of that resident an amount equal to the tax paid in Thailand. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income or capital which may be taxed in Thailand.

CHAPTER VI
SPECIAL PROVISIONS

Article 25

Non-Discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
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 provision 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, 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. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State, shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted 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 State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.
5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

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 actions 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.

The following second sentence of paragraph 2 of Article 16 of the MLI applies to this Convention:⁶

ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

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 purpose of reaching an agreement in the sense of the preceding paragraphs. 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. They may disclose the information in public court proceedings or in judicial decisions.

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

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

Article 28

Diplomatic Agents and Consular Officers

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.

The following paragraph 1 of Article 7 of the MLI applies and supersedes the provisions of this Convention:⁷

⁶ In accordance with paragraph 4 of Article 35 of the MLI, Article 16 of the MLI has effect with respect to this Convention for a case presented to the competent authority of a Contracting State on or after 30 August 2023, except for cases that were not eligible to be presented as of that date under the Convention prior to its modification by the MLI, without regard to the taxable period to which the case relates.

⁷ In accordance with paragraphs 3 and 5 of Article 35 of the MLI, paragraph 1 of Article 7 of the MLI has effect in the Republic of Austria with respect to this Convention:

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2024; and
- b) with respect to all other taxes levied by the Republic of Austria, for taxes levied with respect to taxable periods beginning on or after 1 January 2025;

and,

In accordance with paragraph 1 of Article 35 of the MLI, paragraph 1 of Article 6 of the MLI has effect in the Kingdom of Thailand with respect to this Convention:

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2024; and

ARTICLE 7 OF THE MLI – PREVENTION OF TREATY ABUSE

(Principal purposes test provision)

Notwithstanding any provisions of this Convention, a benefit under this Convention shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention.

Article 29

Entry into Force

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Vienna as soon as possible.
2. This Convention shall enter into force on the first day of the third month next following that in which the exchange of instruments of ratification takes place and its provisions shall have effect:
 - a) in respect of Thai tax, for taxable years or accounting periods beginning on or after the first day of January of the calendar year in which the instruments of ratification are exchanged;
 - b) in respect of Austrian tax, for any fiscal year beginning on or after the first day of January of the calendar year in which the instruments of ratification are exchanged.

Article 30

Termination

This Convention shall continue in effect indefinitely but either of the Contracting States may, on or before the 30th day of June in any calendar year beginning after the expiry of five years from the date of its entry into force give to the other Contracting State, through the diplomatic channel, written notice of termination. In such event, the Convention shall cease to have effect:

- a) in respect of Thai tax, for taxable years or accounting periods beginning on or after the first day of January of the calendar year next following that in which the notice is given.
- b) in respect of Austrian tax, for any fiscal year beginning on or after the first day of January of the calendar year next following that in which the notice is given.

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

DONE in duplicate in BANGKOK on 8 May 1985 in the English language.

For the Republic of Austria:

Dr. Rudolf Bogner

Ambassador Extraordinary and Plenipotentiary

For the Kingdom of Thailand:

Siddhi Savetsila

Minister of Foreign Affairs

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- b) with respect to all other taxes levied by the Kingdom of Thailand, for taxes levied with respect to taxable periods beginning on or after 30 May 2024.