

March 11, 1996

**PROTOCOL AMENDING 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 OF
INCOME SIGNED IN MANILA ON 2 OCTOBER 1976**

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

Desiring to conclude a Protocol to amend 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 in Manila on 2 October 1976 (hereinafter referred to as "the Agreement"),

Have agreed as follows

ARTICLE I

Article 2 of the Agreement is amended by substituting paragraph 3 with, the following :

"3. The existing taxes to which the 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;

(v) the special levy assimilated to the individual income tax;

(vi) the supplementary crisis contribution including . the prepayments, the surcharges on these taxes and prepayments, and the supplements to the individual income tax, (hereinafter referred to as "Belgian tax");

(b) in the Philippines :

the income tax imposed under Title II and the stock transaction tax in accordance with Section 124—A of the National Internal Revenue Code of the Republic of the Philippines,

(hereinafter referred to as "Philippine tax"1)."

ARTICLE II

Article 3 of the Agreement is amended by substituting sub— paragraphs (a) and (b) of paragraph 1, with the following :

(a) the term "Belgium" means the Kingdom of Belgium; used in a geographical sense, it means the territory of the Kingdom of Belgium, including the territorial sea and any other area in the sea and in the air within which the Kingdom of Belgium, in accordance with international law, exercises sovereign rights or its jurisdiction;

(b) the term. "Philippines" mean the Republic of the Philippines; used in a geographic sense it means the archipelagic territory comprising the Republic of the Philippines as defined in. its Constitution and laws, including adjacent areas and such other areas as the territorial sea, other areas in the sea and in the air within which the Philippines has sovereignty; jurisdiction or similar rights under international law;"

ARTICLE III

Article 10 of the Agreement is amended by substituting paragraphs 2, 3 and 4 with the following :

"2 However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State but if the beneficial owner of the dividends is a resident of the other Contracting State the tax charged shall not exceed :

(a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 10 per cent of the capital of the company paying the dividends;

(b) 15 per cent of the gross amount of the dividends in all other cases

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

The tern "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt— claims, participating in profits, as wall as income —even paid in the form of interest which is treated as income from shares by the tax legislation of the State of which the paying company is a resident.

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 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 case the provisions of Article 7 or Article 14, as the case may be, shall apply."

ARTICLE IV

Article 11 of the Agreement is substituted with the following :

"Article 11
Interest

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

However such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

Notwithstanding the provisions of paragraph 2, interest shall be exempted from tax in the Contracting State in which it arises if it is :

(a) interest paid 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; and

(b) interest 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.

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 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" shall not include for the purpose of this Article interest regarded as dividends under paragraph 3 of Article 10.

The provisions of paragraphs 1, 2 and 3 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 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 case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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.

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

ARTICLE V

Article 12 of the Agreement is substituted with the following :