BILATERAL

PROTOCOL to the Tax Convention between the Government of the Republic of the Philippines and the Government of the French Republic signed on January 9,1976

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The Government of the Republic of the Philippines and the Government of the French Republic, desiring to amend the Convention signed on January 9, 1976 between the two Governments for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (hereinafter referred to as "the Convention"), have agreed as follows :

ARTICLE 1

Paragraph 3 of Article 2 of the Convention is deleted and replaced by the following :

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

a) In the case of 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") ;

b) In the case of France :

i) the income tax ("I'impot sur le revenu") ;

ii) the corporation tax ("I'impot sur les societes");

iii) the tax on salaries ("la taxe sur les salaires"), governed by the provisions of the Convention applicable, as the case may be, to business profits or to income from independent personal services,

(hereinafter referred to as "French tax")."

ARTICLE 2

Article 3, paragraph 2 of the Convention is deleted and replaced by the following :

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

The meaning of a term under the taxation law of that State, shall have priority over the meaning provided for such term in the other branches of law of that State.

However in the case of the Philippines, where there is a conflict between the meaning of a term under the Constitution, and its meaning under the taxation law and other laws relating to the taxes which are the subject of the Convention, the former shall prevail."

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ARTICLE 3

Article 6 of the Convention is completed by the following paragraph :

"5. Where the ownership or usufruct of shares or other rights in a company entitles the owner or usufructuary to the enjoyment of immovable property situated in a Contracting State and held by that company, income derived by the owner or usufructuary from the direct use, letting or , use in any other form of his right of enjoyment, excluding mere occupation for his own use by the owner, may be taxed in that State notwithstanding the provisions of Articles 7 and 14."

ARTICLE 4

Paragraph 7 of Article 7 is completed by the following sentence :

"However, the provisions of the preceding paragraphs of this Article shall prevail over the provisions of paragraph 1 of Article 22."

ARTICLE 5

In Article 10 of the Convention :

- in paragraph 2, the rates of "15 percent" and "25 percent" are replaced respectively by "10 percent" and "15 percent";

- in paragraph 6, the rate of "15 percent" is replaced by "10 percent".

ARTICLE 6

Paragraph 2 of Article 12 of the Convention is deleted and replaced by the following :

"2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that 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 percent of the gross amount of the f royalties."

ARTICLE 7

In Article 13 of the Convention, paragraph 4 is deleted.

ARTICLE 8

1. Subparagraph a of paragraph 1 of Article 23 of the Convention is deleted and replaced by the following :

"a) In accordance with the principles of this Convention, taxes paid or accrued under the laws of the French Republic whether directly or by deduction, except the French tax on salaries, in respect of income from sources within France shall be allowed as a credit against Philippine tax subject to the following limitations :

i) the amount of the credit in respect to the tax paid or accrued to France shall not exceed the same proportion of the taxes covered by the Convention against which such credit is taken, which the taxpayer's taxable income from sources within France bears to his entire taxable income for the same taxable year; and

ii) the total amount of the credit shall not exceed the same proportion of the taxes covered by the Convention against such credit is taken, which the taxpayer's taxable income from sources without the Philippines bears to his entire taxable income for the same taxable year.

In the case of a Philippine corporation owning directly or indirectly more than 50 per cent of voting stock of a

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French company from which it receives dividends in any taxable year, the Philippines shall also allow credit for the appropriate amount of taxes paid or accrued to France by a French company paying such dividends with respect to such profits out of which such dividends are paid. The deduction 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 1 France."

2. In paragraph 2 of Article 23 of the Convention:

-In subparagraph b, the words "paragraph 5 of Article 6, Article 8" shall be inserted after "Income referred to in", and the words "paragraph 1 of Article 13, Articles" shall be inserted after "Articles 10,

- Subparagraph I is completed by the following sentence :

> "The provision of this subparagraph shall apply only during the period of ten years following immediately the date of entry into force of the Protocol to the Convention signed on June 26, 1995. That ten year period may be prolonged by mutual agreement between the competent authorities of the Contracting States. If after that ten year period, no mutual agreement is reached, then the credit corresponding to the amount of Philippine tax actually levied shall apply."

-The following subparagraph e is added :

> "e) As regards the application of subparagraph b to income referred to in Articles 11 and 12, where the amount of tax actually paid in the Philippines in accordance with the provisions of those Articles exceeds the amount of French tax attributable to such income, the resident of France who is the beneficiary of such income may present his case to the French competent authority. If it appears to it that such a situation results in taxation which is not comparable to taxation on net income, that competent authority may, under the conditions it determines, allow the non credited amount of tax actually paid in the Philippines as a deduction from the French tax levied on other income from foreign ' sources derived by that resident."
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> ARTICLE 9

Paragraph 1 of Article 24 is deleted and replaced by the following :

"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, in particular with respect to residence, 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."

ARTICLE 10

Paragraph 1 a of Article 28 is deleted and replaced by the following :

> "a) in the case of the Philippines, to the national territory of the Republic of the Philippines in accordance with its Constitution and laws including adjacent areas and such other areas where the Republic has sovereign rights and other rights under international law."
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> ARTICLE 11

ENTRY INTO FORCE

1. Each of the Contracting States shall notify to the other the completion of the procedure required by its law for the bringing into force of this Protocol. This Protocol shall enter into force on the date of the later of those

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notifications.

2. Its provisions shall have effect for the first time :

a) As regards taxes withheld at source, for amounts payable on or after the first day of January of the calendar year in which the Protocol entered into force;

b) As regards other taxes on income, to income derived during the calendar year in which the Protocol entered into force, or relating to the accounting period ended during this year.

3. The Protocol shall remain in force as long as the Convention remains in force.

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

Done at Paris, this 26th day of June, 1995 in duplicate, in the French and English languages, both texts being equally authentic.

For the Government
of the Republic of the Philippines

For the Government
of the French Republic

(Sgd.)

(Sgd.)

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