BILATERAL

PROTOCOL

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At the moment of the signature of the Convention for the avoidance of double taxation with respect to taxes on income between the Republic of the Philippines and the Federative Republic of Brazil the undersigned, being duly authorized thereto, have agreed upon the following provisions which constitute an integral part of the present Convention.

1. With reference to Article 1

It is understood that the Philippines shall have the right to tax in accordance with Philippine law its citizens who are not residents of the Philippines, but
Brazil shall not be bound to give credit for such tax.

In the event income derived by its citizens is taxed in accordance with the preceding sentence, the Philippines shall allow as a deduction from taxable
income an amount equal to the income tax paid in Brazil.

2. With reference to Article 3, paragraph 1, subparagraph (e)
It is understood that in the case of the Philippines, the term "person" defined therein includes an estate or a trust recognized as such under the
Philippine laws.

3. With reference to Article 5, paragraph 3

It is understood that the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e) thereof, shall not be deemed to constitute a permanent establishment provided that the overall activity of the fixed place of business resulting from such a combination is of preparatory or auxiliary character.

4. With reference to Article 7, paragraph 3

It is understood that the provisions of paragraph 3 of Article 7:

> a) shall be construed to mean that expenses incurred for the purpose of the permanent establishment including those for executive and general administrative expenses shall be allowed as a deduction whether incurred in the state where the permanent establishment is situated or elsewhere, and
>
> b) shall not affect the provisions of the internal laws of Brazil or the Philippines in respect of amounts paid or charged (other than reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or to any of its other offices, by way of:
>
> i) royalties, fees or other similar payments in return for the use of patents or other rights,
>
> ii) commission for specific services performed or for management, and
>
> iii) interest on money lent to the permanent establishment, except in the case of banking institution.

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5. With reference to Article 8

It is understood, that the tax that may be imposed by one of the Contracting States on profits from sources within that Contracting State derived by a resident of the other Contracting State from the operation of ships or aircraft in international traffic 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 that may be imposed on profits of the same kind derived under similar circumstances by a resident of a third State.

6. With reference to Article 10, paragraph 4

It is understood that in the case of Brazil the term "dividends" also includes any distribution in respect of certificates of an investment-trust which is a
resident of Brazil

7. With reference to Article 12

It is understood that:

a) in the case of the Philippines, the rate prescribed in paragraph 2 (b) shall only apply to royalties paid by an enterprise registered with the Philippine Board of Investment and engaged in preferred areas of activities. In all other cases, the rate of tax shall not exceed 25 per cent of the gross amount of royalties paid.

b) the provisions of paragraph 3 shal1 apply to payments of any kind received as a consideration for the rendering of technical assistance and technical services.

8.With reference to Article 14

It is understood that the provisions of Article 14 shall apply even if the activities are exercised by a "Sociedade Civil" (Civil Company).

9. With reference to Article 16

It is understood that any remuneration which a person to whom Article 16 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 15 (Dependent personal services)

10. With reference to Article 24, paragraph 2

It is understood that the provisions of paragraph 5 of Article 10 are not in conflict with the provisions of paragraph 2 of Article 24.

11. With reference to Article 24, paragraph 3

The provisions of the Brazilian law which do not allow that royalties as defined in paragraph 3 of Article 12, paid by a company resident of Brazil to a person who is not a resident of Brazil who holds at least 50 per cent of the voting capital of that company be deductible at the moment of the determination of the taxable income of the company resident of Brazil, are not in conflict with the provisions of paragraph 3 of Article 24 of the present Convention.

DONE in the city of Brasilia, this 29th of September 1983, in duplicate, in the English and Portuguese languages, all two texts being equally authentic.

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