

AGREEMENT

BETWEEN

THE GOVERNMENT OF THE UNION OF MYANMAR

AND

THE GOVERNMENT OF THE LAO PEOPLE'S DEMOCRATIC REPUBLIC

FOR

THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION

OF

FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

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:

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 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 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 the case of Union of Myanmar:
 - (i) the income tax imposed under the Income Tax Law (hereinafter referred to as " Myanmar tax ");
 - (b) In the case of Lao People's Democratic Republic (hereinafter referred to as "Lao PDR"):
 - (i) the tax on profits (income) of enterprises ;
 - (ii) the tax on income of individuals;
(hereinafter referred to as " Lao tax ").

4. This Agreement shall apply also to any identical or substantially similar taxes on income which are subsequently imposed by either Contracting State after the date of signature of this Agreement in addition to, or in place of, the existing taxes referred to in this Article. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws.

5. If by reason of changes made in the taxation law of either Contracting State, it appears desirable to amend any Article of this Agreement without affecting the general principles thereof, the necessary amendment may be made by mutual consent by means of an exchange of diplomatic notes or in any other manner in accordance with their constitutional procedures.

ARTICLE 3 GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:
 - (a) the term "Myanmar" means the Union of Myanmar;
 - (b) the term "Lao PDR" means the territory of the Lao People's Democratic Republic; when used in a geographical sense, it means all its national territory, including its territorial water and any area beyond its territorial waters within which Lao PDR, by the Lao PDR legislation and in accordance with international law, has sovereign rights of exploration for and exploitation of natural resources of riverbed and its sub-soil and superjacent water resources;
 - (c) the terms "a Contracting State" and "the other Contracting State" mean Myanmar or Lao PDR as the context requires;
 - (d) the term "national" means:
 - (i) any individual possessing the nationality or citizenship 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;
- (e) the term " person " includes an individual, a company, a body of persons or any other entity which is treated as a taxable entity under the tax 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 " company " means any body corporate or any other entity which is treated as a body corporate for tax purposes;
- (h) the term " tax " means Myanmar tax or Lao tax as the context requires;
- (i) the term " competent authority " means:
 - (i) in the case of Myanmar, the Minister for Finance and Revenue or his authorized representative;
 - (ii) in the case of Lao PDR, the Minister of Finance or his authorized representative;
- (j) the term " international traffic " means any transport by a ship, aircraft or vehicle operated by an enterprise of a Contracting State, except when the ship, aircraft or vehicle is operated solely between places in the other Contracting State.

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

applicable tax laws of that Contracting State prevailing over a meaning given to the term under other laws of that Contracting State.

ARTICLE 4
RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the law of that Contracting State, is liable to tax therein by reason of his domicile, resident, place of management or any other criterion of a similar nature and also includes that Contracting State and any political subdivision or local authority thereof.

2. Where, by reason of the provisions of paragraph 1 of this Article 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 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 only of the Contracting State with which his personal and economic relations are closer (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 not a permanent home available to him in either Contracting State, he shall be deemed to be a resident only of the Contracting State in which he has an habitual abode;
- (c) if he has a habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident only of the Contracting State 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. If its place of effective management cannot be determined, the competent authorities of the Contracting States shall settle the question by mutual agreement.

ARTICLE 5 PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, 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 any other place of extraction or exploration of natural resources, including timber or other forest produces, drilling rig, ship or aircraft use for exploration or exploitation of natural resources;
 - (g) a farm or plantation.

3. The term "permanent establishment" also encompasses:

- (a) A building site, a construction, assembly or installation project or supervisory activities and connection therewith, but only if such site, project or activities last more than six months;
- (b) The furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprises for such purpose, but only if activities of that nature continue (for the same or a connected project) within an Contracting State for a period or periods aggregating more than six months within any twelve months period.

4. 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 or 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 similar activities which have a preparatory or auxiliary character, for the enterprise;
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall

activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:

- (a) has and habitually exercises in that Contracting State an authority to conclude contracts in the name of the enterprises, unless the activities of such person are limited to those mentioned in paragraph 3 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or
- (b) has no such authority, but habitually maintains in the first-mentioned Contracting State, a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, 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 a person other than an agent of an independent status to whom paragraph 7 applies.

7. 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, provided that 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 shall not be considered an agent of an independent status within the meaning of this paragraph.

8. 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.

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property including income from agriculture or forestry situated in the other Contracting State may be taxed in that other Contracting State.
2. The term "immovable property" shall have the meaning which it has under 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, fishery, 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; including timber and other forest produce; ship, aircraft, boat and vehicle shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall also 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 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 is directly or indirectly attributable to (a) that permanent establishment (b) sales in that other Contracting State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or (c) other business activities carried on in that other Contracting State of the same or similar kind as those effected through that permanent establishment.

2. Subject to the provisions of paragraph 3 of this Article 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 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 purpose of the business of the

permanent establishment including executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere provided that such deductions are in accordance with the provisions of an subject to the limitations of the tax laws of that Contracting State.

4. 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 enterprises to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such 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.

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, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8

INTERNATIONAL TRANSPORT

1. Income of an enterprise of a Contracting State from the operation of aircraft or vehicle in international traffic shall be taxable only in the Contracting State.

2. Income of an enterprise of one of the Contracting States derived from the other Contracting State from the operation of ships in international traffic may be taxed in that

other Contracting State, but the tax chargeable in that other Contracting State on such income shall be reduced by an amount equal to fifty per cent thereof.

3. The provisions of paragraphs 1 and 2 of this Article shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

4. For the purposes of this Article, profits from the operation of ship, aircraft or vehicle in international traffic shall include:

- (a) profit from the rental of ship, aircraft or vehicle; and
- (b) profit from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods and merchandise, where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ship, aircraft or vehicle in international traffic.

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 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 of the profits so included are profits which would have accrued to the enterprises 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 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 this 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 Contracting State.
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 recipient is the beneficial owner of the dividends the tax so charged shall not exceed 5 percent of the gross amount of the dividends.

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or jouissance rights, mining shares, founder's shares not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the Contracting State of which the company making the distribution is a resident.

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 Contracting 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 income or profits from the other Contracting State, that other Contracting 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 Contracting 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 Contracting 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 that other Contracting 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 Contracting State.
2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that Contracting 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. The competent authorities of the Contracting States shall by mutual agreement settle the mode of the application of this limitations.
3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to the Government of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State.
4. For the purpose of paragraph 3, the term "Government":
 - (a) in the case of Myanmar, means the Government of Myanmar and shall include:
 - (i) the Government of the State;
 - (ii) the local authorities;
 - (iii) the statutory bodies;
 - (iv) the Central Bank of Myanmar; and
 - (v) any institution wholly owned by the Government of Myanmar, as may be agreed from time to time between the competent authorities of the Contracting States;

- (b) in the case of Lao PDR, means the Government of Lao People's Democratic Republic and shall include:
- (i) the Bank of Lao PDR;
 - (ii) the local authorities;
 - (iii) the statutory bodies;
 - (iv) any body corporate wholly owned by the Government of Lao PDR (as defined in this Article); and
 - (v) such institution as may be agreed from time to time between the competent authorities of the Contracting States.

5. 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 including interest on deferred payment sales. Penalty charges for late payment shall not be regarded as interest for the purpose of this article.

6. 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 Contracting 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 (a) such permanent establishment or fixed base or with (b) business activities referred to in (c) of paragraph 1 of Article 7. In such

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

7. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority, a statutory body 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 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.

8. 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 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 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 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 Contracting State.

2. However, such royalties may also be taxed in a 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 10 per cent of the gross amount of the royalties. The competent authorities of

the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including computer software, cinematograph films, of films or tapes or discs 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 Contracting 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 (a) such permanent establishment or fixed base or with (b) business activities referred to in (c) of paragraph 1 of Article 7. 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 when the payer is that State itself, a political subdivision, a local authority, a statutory body or a resident of that Contracting 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 a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such 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 Agreement.

ARTICLE 13
CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other Contracting State.
2. Gains from the alienation of movable property forming part of 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 independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base may be taxed in that other Contracting State.
3. Gains from the alienation of ship, aircraft or vehicle operated in international traffic or movable property pertaining to the operation of such ship, aircraft or vehicle shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. Gains from the alienation of shares of the capital stock of a company the property of which consists principally of immovable property situated in a Contracting State may be taxed in that State.
5. Gains from the alienation of shares other than those mentioned in paragraph 4 representing a participation of 25 percent in a company which is a resident of a Contracting State may be taxed in that State.
6. Gains from the alienation of property other than that referred to in paragraphs 1,2,3,4 and 5 shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is 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 except in the following circumstances, when such income may also be taxed in the other Contracting State:
 - (a) If he 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 State; or
 - (b) If his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any period of twelve months; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State; or
 - (c) If the remuneration for his activities in the other Contracting State is paid by a resident of that Contracting State or is borne by a permanent establishment situated in that Contracting State and exceeds in the fiscal year US\$ 6000.

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 and 20, 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 Contracting 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 Contracting State.

2. Notwithstanding the provisions of paragraph 1, remuneration or income 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 Contracting State if :

- (a) the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in any twelve months period commencing or ending in the fiscal year concerned;
- (b) the remuneration or income is paid by, or on behalf of, an employer who is not a resident of the other Contracting State; and
- (c) the remuneration is not borne by a resident of other Contracting State or 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 abroad a ship, aircraft or vehicle operated in international traffic, or abroad a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

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 or any other similar organ of a company which is a resident of the other Contracting State may be taxed in that other Contracting State.

ARTICLE 17 ARTISTES AND SPORTSPERSONS

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his personal activities as such exercised in the other Contracting State, may be taxed in that other Contracting State.

2. Where income in respect of or in connection with personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to that entertainer or sportsperson 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 sportsperson are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, income derived in respect of the activities referred to in paragraph 1 of this Article within the framework of cultural or sports exchange programme agreed to by both Contracting States shall be exempt from tax in the Contracting State in which these activities are exercised.

ARTICLE 18

PENSIONS

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

ARTICLE 19

GOVERNMENT SERVICE

1. (a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or local authority or a statutory body thereof to any individual in respect of services rendered to that Contracting State or political subdivision or local authority or statutory body thereof shall be taxable only in that Contracting State.
- (b) However, such salaries, wages and other similar remuneration, shall be taxable only in the other Contracting State if the services are rendered in that other Contracting State and the individual is a resident of that Contracting State who:
 - (i) is a national of that Contracting State; or
 - (ii) did not become a resident of that Contracting State solely for the purpose of rendering 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 or a statutory body thereof to any individual in respect of services rendered to that Contracting State or political subdivision or a local authority or a statutory body thereof shall be taxable only in that Contracting 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 Contracting State.
3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages, and other similar remuneration or pensions in respect of services rendered in connection with a business carried on by a Contracting State or political subdivision or local authority or statutory body thereof.

ARTICLE 20 STUDENTS AND TRAINEES

1. An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State and is temporarily present in the other Contracting State solely:
 - (a) as a student at a recognized university, college, school or other similar recognized educational institution in that other Contracting State;
 - (b) as a business or technical apprentice; or
 - (c) as a recipient of a grant, allowance or award for the primary purpose of study, research or training from the Government of either Contracting State or from a scientific, educational, religious or charitable organization or under a technical assistance programme entered into by the Government of either Contracting State, shall be exempt from tax of that other Contracting State on:

- (i) all remuneration from abroad for the purposes of his maintenance, education, study, research or training;
- (ii) the amount of such grant, allowance or award; and
- (iii) any remuneration not exceeding 3600 US dollars per annum in respect of services in that other Contracting State provided the services are performed in connection with his study, research or training or are necessary for the purposes of his maintenance.

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 Contracting State solely as a trainee for the purpose of acquiring technical, professional or business experience, shall for a period not exceeding four years from the date of his first arrival in that other Contracting State in connection with that visit be exempt from tax in that other Contracting State in respect of:

- (a) all remittances from abroad for the purpose of his maintenance or training; and
- (b) any remuneration for personal services rendered in that other Contracting State.

3. The benefits of paragraph 1 and 2 of this Article shall not be concurrently cumulative.

ARTICLE 21

TEACHERS AND RESEARCHERS

1. An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State, and who, at the invitation of any approved university, college, school, other similar educational institution or scientific research institution, visits that other Contracting State for a period not exceeding two years from the date of his arrival in that other Contracting State solely for the purpose of teaching or research

or both at such institutions shall be exempt from tax in that other Contracting State on any remuneration for such teaching or research.

2. The term "approved" in paragraph 1 refers to the approval given by the Contracting State in which the university, college, school or other similar educational institution or scientific research institution is situated.

3. This Article shall not apply to income from research if such research is undertaken primarily for the private benefit of a specific person or persons.

ARTICLE 22 OTHER INCOME

1. Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Agreement shall be taxable only in that Contracting State except that if such income is derived from sources in the other Contracting State, it may also be taxed in that other Contracting State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other Contracting State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 15 as the case may be, shall apply.

ARTICLE 23**ELIMINATION OF DOUBLE TAXATION**

1. The laws in force in either of the Contracting State shall continue to govern the taxation of income in the respective Contracting State except where express provision to the contrary is made in this Agreement.
2. In the case of Myanmar, Lao tax payable in respect of income derived from Lao PDR shall be allowed as a credit against Myanmar tax payable in respect of that income. The credit shall not, however, exceed that part of the Myanmar tax, as computed before the credit is given which is attributable to such income.
3. In the case of Lao PDR, Myanmar tax payable in respect of income derived from Myanmar shall be allowed as a credit against Lao tax payable in respect of that income. The credit shall not, however, exceed that part of the Lao tax, as computed before the credit is given which is attributable to such income.
4. For the purposes of paragraph 2 of this Article, the term "Lao tax payable" shall be deemed to include the amount of Lao tax which would have been paid if the Lao tax have not been exempted or reduced in accordance with the special incentive laws designed to promote economic development in Lao PDR, effective the date of signature of this Agreement, or which may be introduced hereafter in modification of, or in addition to, those laws so far as they are agreed by the competent authorities of the Contracting States to be of a substantially similar character.
5. For the purposes of paragraph 3 of this Article, the term "Myanmar tax payable" shall be deemed to include the amount of Myanmar tax which would have been paid if the Myanmar tax have not been exempted or reduced in accordance with the special incentive laws designed to promote economic development in Myanmar, effective the date of signature of this Agreement, or which may be introduced hereafter in modification of, or in addition to, those laws so far as they are agreed by the competent authorities of the Contracting States to be of a substantially similar character.

ARTICLE 24
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 Contracting 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 favorably levied in that other State than the taxation levied on enterprises of that other Contracting 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, relief and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
3. 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 or any requirements connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned Contracting State are or may be subjected.
4. Except where the provisions of paragraph 1 of Article 9, 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 Contracting State.

5. Where a Contracting State grants tax incentives to its nationals designed to promote economic or social development in accordance with its national policy and criteria, it shall not be construed as discrimination under this Article.
6. In this Article, the term "taxation" means taxes which are the subject of this Agreement.

ARTICLE 25

MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State 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 provision of this Agreement, he may, notwithstanding the remedies provided by the domestic law related to taxation of those Contracting 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 24, 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 action resulting in taxation not in accordance with the provisions of this Agreement.
2. The competent authority shall endeavor, 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 this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic laws of the Contracting States.

3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together for the avoidance of double taxation in cases not provided for in this Agreement.

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.

ARTICLE 26

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 Agreement or of the domestic laws of the Contracting States concerning taxes covered by this Agreement, insofar as the taxation there under is not contrary to this Agreement, in particular for the prevention of fraud or evasion of such taxes. The exchange of information is not restricted by Article 1. Any information so exchanged by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of the Contracting State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment, collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by this Agreement. Such persons or authorities shall use the information only for such purposes including the disclosure of such 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 States the obligation:

- (a) to carry out administrative measures at variance with the laws and the administrative practice of that or 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 (order public).

ARTICLE 27

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

ARTICLE 28

ENTRY INTO FORCE

1. The Contracting States shall notify each other in writing, through the diplomatic channels indicating the completion of internal legal procedures for the entry into force of this Agreement.
2. This Agreement shall enter into force on the date of the later of the notification referred to in paragraph 1 of this Article.

3. The provisions of this Agreement shall have effect:

(a) in Myanmar:

- (i) in respect of taxes withheld at source, to the income derived on or after the first day of April in the fiscal year following the fiscal year in which this Agreement enters into force;
- (ii) in respect of other taxes on income, to taxes chargeable for any year of assessment beginning on or after the first day of April of the second fiscal year following the fiscal year in which this Agreement enters into force and subsequent years of assessment.

(b) in Lao PDR:

- (i) in respect of taxes withheld at source, to the income derived on or after the first day of January in the calendar year following the year in which this Agreement enters into force;
- (ii) in respect of other taxes on income, to taxes chargeable for any year of assessment beginning on or after the first day of January of the second calendar year following the year in which this Agreement enters into force and subsequent years of assessment.

ARTICLE 29
TERMINATION

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate this Agreement at any time after five years from the date on which the Agreement enters into force, by giving writing notice of termination through diplomatic channels at least six months before the end of any calendar year. In such event, this Agreement shall cease to have effect:

- (a) in Myanmar:
 - (i) in respect of taxes withheld at source, to income derived on or after the first day of April in the fiscal year following the year in which the notice is given;
 - (ii) in respect of other taxes on income, to taxes chargeable for any year of assessment beginning on or after the first day of April of the second fiscal year following the year in which the notice is given;
- (b) in Lao PDR:
 - (i) in respect of taxes withheld at source, to income derived on or after the first day of January in the calendar year following the year in which the notice is given;
 - (ii) in respect of other taxes on income, to taxes chargeable for any year of assessment beginning on or after the first day of January of the second calendar year following the year in which the notice is given.

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

DONE in duplicate at Nay Pyi Taw on this 20th day of November 2009 in Myanmar, Lao and English Languages, all texts being equally authentic. In the event of divergence in interpretations between the texts of this Agreement, the English text shall prevail.

For the Government of
the Union of Myanmar

For the Government of
the Lao People's Democratic Republic

Major General Hla Tun
Minister for Finance and Revenue

Dr. Thongloun SISOULITH
Deputy Prime Minister and Minister of Foreign Affairs