AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE AND THE GOVERNMENT OF NEW ZEALAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

Date of Conclusion: 21 August 2009

Entry into Force: 12 August 2010

Effective Date: 1 October 2010/1 April 2011 (New Zealand); 1 January 2011 (Singapore)

NOTE

Singapore and New Zealand signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (commonly known as the "Multilateral Instrument" or in short, the "MLI") on 7 June 2017. Singapore and New Zealand ratified the MLI on 21 December 2018 and 27 June 2018 respectively.

More information on the MLI is available at https://www.iras.gov.sg/irashome/Quick-Links/International-Tax/Multilateral-Instrument/.

The Income Tax (Singapore-New Zealand) (Avoidance of Double Taxation Agreement) Order 2019, which has entered into force on 1 April 2019, implements the applicable provisions of the MLI to the articles of this Agreement. For informational purposes, details of the amendments to this Agreement are shown in Annex A.

On 18 and 21 November 2024, the competent authorities of the Republic of Singapore and of New Zealand signed a competent authority arrangement ("CAA") to establish the mode of application of the arbitration proceedings provided for in Part VI (Arbitration) of the MLI. The text of the CAA is shown in Annex B.

NOTE

There was an earlier Convention signed between the Government of the Republic of Singapore and the Government of New Zealand for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

The text of this Convention which was signed on 21 August 1973 is shown in Annex C.

This earlier Convention was amended by a Protocol signed on 5 September 2005 that entered into force on 17 August 2006 and its provisions shall take effect from 1 Jan 2006 (as shown in Annex D).

The application of Article 19 of this earlier Convention was clarified in a protocol signed on 1 July 1993 that entered into force on 10 September 1993. It is effective as of 1 July 1993 (as shown in Annex E).

The Government of the Republic of Singapore and the Government of New Zealand,

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 – PERSONS COVERED

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

ARTICLE 2 – TAXES COVERED

1. The existing taxes to which the Agreement shall apply are:

(a) In New Zealand: the income tax

(hereinafter referred to as “New Zealand tax”);

(b) In Singapore: the income tax

(hereinafter referred to as “Singapore tax”).

2. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other within a reasonable period of time of any significant changes that have been made in their taxation laws.

ARTICLE 3 – GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:

(a) the term “person” includes an individual, a company and any other body of persons;

(b) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;

(c) the term "enterprise" applies to the carrying on of any business;

(d) 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;

(e) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(f) the term “competent authority” means:

(i) in the case of New Zealand, the Commissioner of Inland Revenue or an authorised representative;

(ii) in the case of Singapore, the Minister for Finance or an authorised representative;

(g) the term “national”, in relation to a Contracting State, means:

(i) any individual possessing the nationality or citizenship of that Contracting State; and

(ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State;

(h) the term “business” includes the performance of professional services and of other activities of an independent character;

(i) the terms “a Contracting State” and “the other Contracting State” mean New Zealand or Singapore as the context requires;

(j) the term “statutory body” means a body constituted by statute and performing only non-commercial functions which would otherwise be performed by the Government of a Contracting State;

(k) the term “recognised Stock Exchange” means:

(i) in the case of New Zealand, the securities markets operated by the New Zealand Exchange Limited;

(ii) in the case of Singapore, the securities market operated by the Singapore Exchange Limited, Singapore Exchange Securities Trading Limited and the Central Depository (Pte) Limited; and

(iii) any other stock exchange located in a Contracting State that is agreed upon by the competent authorities of the Contracting States;

(l) (i) the term “New Zealand” means the territory of New Zealand but does not include Tokelau or the Associated Self Governing States of the Cook Islands and Niue; it also includes any area beyond the territorial sea designated under New Zealand legislation and in accordance with international law as an area in which New Zealand may exercise sovereign rights with respect to natural resources;

(ii) the term “Singapore” means the Republic of Singapore and when used in a geographical sense, the term “Singapore” includes the territorial waters of Singapore and any area extending beyond the limits of the territorial waters of Singapore, and the sea-bed and subsoil of any such area, which has been or may hereafter be designated under the laws of Singapore and in accordance with international law as an area over which Singapore has sovereign rights for the purposes of exploring and exploiting the natural resources, whether living or non-living.

2. For the purposes of Articles 10, 11 and 12, a trustee subject to tax in a Contracting State in respect of dividends, interest or royalties shall be deemed to be the beneficial owner of that interest or those dividends or royalties.

3. As regards the application of the 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 State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

ARTICLE 4 – RESIDENT

1. For the purposes of this Agreement, 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 that person's domicile, residence, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision, local authority or statutory body thereof.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then the individual's status shall be determined as follows:

(a) the individual shall be deemed to be a resident only of the State in which a permanent home is available to the individual; if a permanent home is available to the individual in both States, the individual shall be deemed to be a resident only of the State with which the individual's personal and economic relations are closer (centre of vital interests);

(b) if the State in which the individual's centre of vital interests cannot be determined, or if a permanent home is not available to the individual in either State, the individual shall be deemed to be a resident only of the State in which the individual has an habitual abode;

(c) if the individual has an habitual abode in both States or in neither of them, the individual shall be deemed to be a resident only of the State of which the individual is a national;

(d) in any other case, 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 only of the State in which its place of effective management is situated.

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, and

(f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site, or a construction, installation or assembly project, or supervisory activities in connection with that building site or construction, installation or assembly project, constitutes a permanent establishment if it lasts more than 12 months.

4. An enterprise shall be deemed to have a permanent establishment in a Contracting State and to carry on business through that permanent establishment if:

(a) (i) it carries on activities which consist of, or which are

connected with, the exploration or exploitation of natural resources, including standing timber, situated in that State; or

(ii) the enterprise operates substantial equipment in that State;

but only where the activities continue or the substantial equipment is operated within the State for a period or periods exceeding in the aggregate 183 days in any 12-month period commencing or ending in the year of income concerned; or

(b) it furnishes services (including consultancy and independent personal services), but only where activities of that nature continue within the State for a period or periods exceeding in the aggregate 183 days in any 12-month period commencing or ending in the year of income concerned.

5. For the purposes of determining the duration of activities under paragraphs 3 and 4, the period during which activities are carried on in a Contracting State by an enterprise associated with another enterprise shall be aggregated with the period during which activities are carried on by the enterprise with which it is associated if the first-mentioned activities are connected with the activities carried on in that State by the last-mentioned enterprise, provided that any period during which two or more associated enterprises are carrying on concurrent activities is counted only once. An enterprise shall be deemed to be associated with another enterprise if one is controlled directly or indirectly by the other, or if both are controlled directly or indirectly by a third person or persons.

6. An enterprise shall not be deemed to have a “permanent establishment” merely by reason of:

(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 carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

(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.

7. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 8 applies – is acting on behalf of an enterprise; and

(a) has, and habitually exercises, in a Contracting State an authority to substantially negotiate or conclude contracts on behalf of the enterprise; or

(b) manufactures or processes in the first-mentioned State for the enterprise goods or merchandise belonging to the enterprise,

that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 6 and are, in relation to that enterprise, of a preparatory or auxiliary character.

8. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that 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.

9. 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 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, forestry or fishing) situated in the other Contracting State may be taxed in that other 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 any natural resources, 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, rights to explore for or exploit natural resources or standing timber, and rights to variable or fixed payments either as consideration for or in respect of the exploitation of, or the right to explore for or exploit natural resources or standing timber; ships 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.

ARTICLE 7 – BUSINESS PROFITS

1. The 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 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 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. 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.

5. 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.

6. Where:

(a) a resident of a Contracting State beneficially owns, whether directly or through one or more interposed trusts, a share of the business profits of an enterprise carried on in the other Contracting State by the trustee of a trust other than a trust which is treated as a company for tax purposes; and

(b) in relation to that enterprise, that trustee would, in accordance with the principles of Article 5, have a permanent establishment in that other State,

the enterprise carried on by the trustee shall be deemed to be a business carried on in the other State by that resident through a permanent establishment situated in that other State and that share of business profits shall be attributed to that permanent establishment.

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.

8. Notwithstanding the provisions of this Article, an enterprise of a Contracting State that derives income or profits from any form of insurance, other than life insurance, from the other Contracting State in the form of premiums paid for the insurance of risks situated in that other State, may to that extent be taxed in the other State in accordance with the law of that other State relating specifically to the taxation of any person who derives such income or profits. However, the amount of the income or profits that may be taxed in that Contracting State shall not exceed 10 per cent of the gross premiums receivable, except where the income or profits so derived are attributable to a permanent establishment of an enterprise of the first-mentioned State, in which case the other provisions of this Article shall apply.

ARTICLE 8 – SHIPPING AND AIR TRANSPORT

1. Profits derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph 1, such profits may be taxed in the other Contracting State to the extent the profits relate to transport confined solely to places in that other State.

3. The provisions of paragraphs 1 and 2 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 ships or aircraft in international traffic shall include:

(a) profits from the rental on a bareboat basis of ships or aircraft; and

(b) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers), used for the transport of goods or merchandise;

where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

5. For the purposes of this Article, profits derived from the carriage by ships or aircraft of passengers, livestock, mail, goods or merchandise which are shipped in a Contracting State for discharge at a place in that State shall be treated as profits from transport confined solely to places in that State.

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 State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned 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 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 beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:

(a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company that owns directly at least 10 per cent of the voting power 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 company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares and other income treated as income from shares by the laws of the 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 and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 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 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.

6. No relief shall be available under this Article if it was the main purpose or one of the main purposes of any person concerned with an assignment of the dividends, or with the creation or assignment of the shares or other rights in respect of which the dividend is paid, or the establishment, acquisition or maintenance of the company that is the beneficial owner of the dividends and the conduct of its operations, to take advantage of this Article. In any case where a Contracting State intends to apply this paragraph, the competent authority of that State shall consult with the competent authority of the 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 State.

2. 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.

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 State.

4. For the purpose of paragraph 3, the term "Government":

(a) in the case of New Zealand, means the Government of New Zealand and shall include:

(i) the Reserve Bank of New Zealand;

(ii) the New Zealand Export Credit Office;

(iii) the New Zealand Superannuation Fund;

(iv) a statutory body; and

(v) any institution wholly or mainly owned by the Government of New Zealand as may be agreed from time to time between the competent authorities of the Contracting States;

(b) in the case of Singapore, means the Government of Singapore and shall include:

(i) the Monetary Authority of Singapore;

(ii) the Government of Singapore Investment Corporation Pte Ltd;

(iii) a statutory body; and

(iv) any institution wholly or mainly owned by the Government of Singapore 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 all other income treated as income from money lent by the laws, relating to tax, of the Contracting State in which the income arises, but does not include any income which is treated as a dividend under Article 10.

6. 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 and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

7. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether the person is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by or deductible in determining the income, profits or gains attributable to that permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment 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, 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 State.

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 5 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind, whether periodical or not, and however described or computed, to the extent to which they are made as consideration for:

(a) the use of, or the right to use, any copyright (including the use of or the right to use any literary, dramatic, musical, artistic, or scientific works, sound recordings, films, broadcasts, cable programmes, typographical arrangements of published editions or computer software), patent, design or model, plan, secret formula or process, trade-mark, or other like property or right; or

(b) the use of, or the right to use, any industrial, scientific or commercial equipment; or

(c) knowledge or information concerning industrial, commercial or scientific experience; or

(d) any assistance that is ancillary and subsidiary to, and is furnished as a means of enabling the application or enjoyment of, any such property or right as is mentioned in subparagraph (a), any such equipment as is mentioned in subparagraph (b) or any such knowledge or information as is mentioned in subparagraph (c); or

(e) total or partial forbearance in respect of the use or supply of any property or right referred to in this paragraph.

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 and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is a person who is a resident of that State. Where, however, the person paying the royalties, whether the person is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and the royalties are borne by or deductible in determining the income, profits or gains attributable to that permanent establishment, then the royalties shall be deemed to arise in the State in which the permanent establishment 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.

7. No relief shall be available under this Article if it was the main purpose or one of the main purposes of any person concerned with an assignment of the royalties, or with the creation or assignment of the rights in respect of which the royalties are paid or credited, to take advantage of this Article by means of that creation or assignment. In any case where a Contracting State intends to apply this paragraph, the competent authority of that State shall consult with the competent authority of the other Contracting State.

ARTICLE 13 – ALIENATION OF PROPERTY

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 State.

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, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.

3. Gains 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 the Contracting State in which the enterprise alienating such ships, aircraft or other property is a resident.

4. Gains derived by a resident of a Contracting State from the alienation of shares, other than shares traded on a recognised Stock Exchange, deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.

5. Nothing in this Agreement affects the application of the laws of a Contracting State relating to the taxation of gains of a capital nature derived from the alienation of any property other than that to which any of the preceding paragraphs of this Article apply.

ARTICLE 14 – INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 15, 17 and 18, 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 any twelve month period commencing or ending in the year of income 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 or not deductible in determining the taxable profits of a permanent establishment 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. However, if the remuneration is derived by a resident of the other Contracting State, it may also be taxed in that other State.

ARTICLE 15 – DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State in that person's 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 16 – ENTERTAINERS AND SPORTSPERSONS

1. Notwithstanding the provisions of Articles 7 and 14, 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 that person's personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in that person's capacity as such accrues not to the entertainer or sportsperson but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a Contracting State by an entertainer or a sportsperson if the visit to that State is wholly or mainly supported by public funds of one or both of the Contracting States or political subdivisions or local authorities or statutory bodies thereof. In such case, the income shall be taxable only in the Contracting State in which the entertainer or the sportsperson is a resident.

ARTICLE 17 – PENSIONS

1. Subject to the provisions of paragraph 2 of Article 18, 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. Pensions and other payments made under the social security legislation of a Contracting State to a resident of the other Contracting State shall be taxable only in that other State.

ARTICLE 18 – GOVERNMENT SERVICE

1. (a) Salaries, wages and other similar remuneration paid by a Contracting State or a political subdivision or a local authority or a statutory body thereof to an individual in respect of services rendered to that State or subdivision or authority or body shall be taxable only in that 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 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. (a) Notwithstanding the provisions of paragraph 1, any pensions and other similar remuneration paid by, or out of funds created by, one of the Contracting States or a political subdivision or a local authority or a statutory body thereof to an individual in respect of services rendered to that State or subdivision or authority or body may be taxed in that State.

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

3. The provisions of Articles 14, 15, 16, and 17 shall apply to salaries, wages, and other similar remuneration, and to 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 or a statutory body thereof.

ARTICLE 19 – STUDENTS

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of the student's or business apprentice's education or training receives for the purpose of the student's or business apprentice's maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

ARTICLE 20 – OTHER INCOME

Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State except that if such income is derived from sources within the other Contracting State, that income may also be taxed in that other State.

ARTICLE 21 – ELIMINATION OF DOUBLE TAXATION

1. Subject to any provisions of the laws of New Zealand which may from time to time be in force which relate to the allowance of a credit against New Zealand tax of tax paid in a country outside New Zealand (which shall not affect the general principle of this Article), Singapore tax paid under the laws of Singapore and consistent with this Agreement, whether directly or by deduction, in respect of income derived by a resident of New Zealand from sources in Singapore (excluding, in the case of a dividend, tax paid in respect of the profits out of which the dividend is paid) shall be allowed as a credit against New Zealand tax payable in respect of that income.

2. Subject to any provisions of the laws of Singapore which may from time to time be in force and which relate to the allowance of a credit against Singapore tax of tax paid in a country outside Singapore (which shall not affect the general principles hereof), New Zealand tax paid under the law of New Zealand and in accordance with this Agreement, whether directly or by deduction, in respect of income derived by a Singapore resident from sources in New Zealand (excluding, in the case of a dividend, tax paid in respect of profits out of which the dividend is paid) shall be allowed as a credit against Singapore tax payable in respect of that income. However, where such income is a dividend paid by a company which is a New Zealand resident to a company which is a Singapore resident and which beneficially owns at least 10% of the paid-up share capital in the first-mentioned company the credit shall take into account (in addition to any New Zealand tax on dividends) the New Zealand tax paid by the first-mentioned company in respect of its profits.

3. For the purposes of paragraph 1 of this Article, a New Zealand resident deriving income from sources in Singapore consisting of –

(a) profits, being profits in respect of which an exemption from Singapore tax has been granted under the provisions of the Economic Expansion Incentives (Relief from Income Tax) Act, (Chapter 86) of Singapore; or

(b) interest or royalties, being interest or royalties in respect of which an exemption from or reduction of Singapore tax has been granted under the provisions of the said Economic Expansion Incentives (Relief from Income Tax) Act, (Chapter 86) –

shall be deemed to have paid Singapore tax in an amount or, as the case may be, the Singapore tax paid shall be deemed to have been increased by an amount equal to the amount by which the Singapore tax that otherwise would have been payable under the law of Singapore and in accordance with this Agreement in respect of those profits or, as the case may be, that interest or those royalties is reduced by the exemption or reduction granted.

4. Every reference in paragraph 3 to the Economic Expansion Incentives (Relief from Income Tax) Act, (Chapter 86) shall be deemed to include a reference to any other law which is imposed in Singapore after the date of signature of this Agreement in modification of, or in addition to, or in substitution for, that Act and which is agreed, in an Exchange of Letters between the Contracting States, to be of a substantially similar character to the provisions of that Act as in force at the date of signature of this Agreement.

5. Notwithstanding paragraph 3, a New Zealand resident deriving income from Singapore, being income referred to in that paragraph, shall not be deemed to have paid Singapore tax in respect of such income where the competent authority of New Zealand considers, after consultation with the competent authority of Singapore, that it is inappropriate to do so having regard to:

(a) whether any prearrangements have been entered into by any person for the purpose of taking advantage of paragraph 3 for the benefit of that person or any other person;

(b) whether any benefit accrues or may accrue to a person who is neither a New Zealand resident nor a Singapore resident;

(c) the prevention of fraud or the avoidance of the taxes to which the Agreement applies;

(d) any other matter which the competent authorities consider relevant in the particular circumstances of the case including any submissions from the New Zealand resident concerned.

6. The provisions of paragraph 3 shall apply for the first 10 years for which the Agreement is effective.

ARTICLE 22 – MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for that person in taxation not in accordance with the provisions of this Agreement, that person may, irrespective of the remedies provided by the domestic law of those States, present a case to the competent authority of the Contracting State of which the person is a resident. 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 the Agreement.

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 Agreement. 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 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 23 – EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 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) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. 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.

3. In no case shall the provisions of paragraphs 1 and 2 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).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

ARTICLE 24 – 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 25 – ENTRY INTO FORCE

1. This Agreement shall enter into force on the last date on which the Contracting States exchange notes through the diplomatic channel notifying each other that the last of such things has been done as is necessary to give the Agreement the force of law in New Zealand and in Singapore, as the case may be, and, in that event, the Agreement shall have effect:

(a) in New Zealand:

(i) in respect of withholding tax on income, profits or gains derived by a non-resident, for amounts paid or credited on or after the first day of the second month next following the date on which the Agreement enters into force;

(ii) in respect of other New Zealand tax, for any income year beginning on or after 1 April next following the date on which the Agreement enters into force;

(b) in Singapore:

in respect of tax chargeable for any year of assessment beginning on or after 1 January in the second calendar year following the year in which the Agreement enters into force.

2. The *Agreement between the Government of New Zealand and the Government of the Republic of Singapore for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income*, with Protocol, signed on 21st August 1973 as amended by a Second Protocol signed on 1st July 1993 and a Third Protocol signed on 5th September 2005 shall terminate and cease to have effect in relation to any tax in respect of which this Agreement comes into effect in accordance with paragraph 1. To the extent that the first-mentioned Agreement applies to taxes not covered by this Agreement, the first-mentioned Agreement as it relates to such taxes shall also terminate and cease to have effect from the date of entry into force of this Agreement.

3. Notwithstanding paragraph 1 of this Article, if, on the date that Singapore notifies New Zealand that the last of such things has been done as is necessary to give the Agreement force of law in Singapore in accordance with paragraph 1 of this Article, Singapore has not completed its domestic legislative requirements necessary for entry into force of Article 23, such circumstances shall be recorded in Singapore's notification under paragraph 1 of this Article and Article 23 shall not enter into force for Singapore.

4. If the circumstances described in paragraph 3 of this Article prevail, Singapore shall notify New Zealand when it has completed its domestic legislative requirements necessary for entry into force of Article 23. Article 23 shall enter into force for Singapore 30 days after the date of such notification.

5. Notwithstanding paragraph 2 of this Article, if the circumstances described in paragraphs 3 and 4 of this Article prevail, Singapore shall continue to be bound by its obligations under Article 21 (Exchange of Information) of the *Agreement between the Government of New Zealand and the Government of the Republic of Singapore for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income*, with Protocol, signed on 21st August 1973 as amended by a Second Protocol signed on 1st July 1993 and a Third Protocol signed on 5th September 2005 until such time as Article 23 of the Agreement enters into force for Singapore in accordance with paragraph 4 of this Article.

ARTICLE 26 – TERMINATION

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving notice of termination on or before 30 June in any calendar year beginning after the expiration of 5 years from the date of its entry into force. In such event, the Agreement shall cease to have effect:

(a) in New Zealand:

(i) in respect of withholding tax on income, profits or gains derived by a non-resident, for amounts paid or credited on or after the first day of the second month next following that in which the notice of termination is given;

(ii) in respect of other New Zealand tax, for any income year beginning on or after 1 April in the calendar year next following that in which the notice of termination is given;

(b) in Singapore:

in respect of tax chargeable for any year of assessment beginning on or after 1 January in the second calendar year following the year in which the notice is given.

IN WITNESS WHEREOF the undersigned, duly authorised by their respective Governments, have signed this Agreement.

DONE in duplicate at Singapore this 21st day of August 2009 in the English language.

FOR THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE	FOR THE GOVERNMENT OF NEW ZEALAND
MOSES LEE COMMISSIONER OF INLAND REVENUE	H.E. MARTIN HARVEY HIGH COMMISSIONER

PROTOCOL

The Government of the Republic of Singapore and the Government of New Zealand have agreed that the following provisions shall form an integral part of the Agreement:

ARTICLE I

With reference to Article 2 of the Agreement:

It is understood that the taxes covered by the Agreement do not include any amount which represents a penalty or interest imposed under the laws of either Contracting State.

ARTICLE II

With reference to Article 5 of the Agreement:

It is understood that profits attributable, if any, to a permanent establishment existing under paragraph 7 will be determined in accordance with Article 7 of the Agreement.

ARTICLE III

With reference to Article 6 of the Agreement:

Any right referred to in paragraph 2 shall be regarded as situated where the property to which it relates is situated or where the exploration or exploitation may take place.

ARTICLE IV

With reference to Article 8 of the Agreement:

It is understood that the interpretation in the Commentary to Article 8 of the OECD Model Tax Convention on Income and on Capital as it read on 17 July 2008 shall apply in relation to interest. In particular it is understood that interest on funds connected with the operation of ships or aircraft in international traffic shall be regarded as profits derived from such operations where the investment that generates that interest is made as an integral part of the carrying on of the business of the operation of ships or aircraft in international traffic.

ARTICLE V

With reference to Article 11 of the Agreement:

Penalty charges for late payment for trade credits shall not be regarded as interest for the purpose of this Article.

ARTICLE VI

With reference to Articles 10, 11 and 12 of the Agreement:

If, in an agreement for the avoidance of double taxation that is made, after the date of signature of this Agreement, between New Zealand and a third State, New Zealand agrees to limit the rate of tax:

(a) on dividends paid by a company which is a resident of New Zealand for the purposes of New Zealand tax to which a company that is a resident of the third State, or the third State or a political subdivision or a local authority or a statutory

body or institution thereof is entitled, to a rate less than that provided in paragraph (2) of Article 10; or

(b) on interest arising in New Zealand to which a resident of the third State is entitled, to a rate less than that provided in paragraph (2) of Article 11; or

(c) on royalties arising in New Zealand to which a resident of the third State is entitled, to a rate less than that provided in paragraph (2) of Article 12,

the Government of New Zealand shall immediately inform the Government of the Republic of Singapore in writing through the diplomatic channel and shall enter into negotiations with the Government of the Republic of Singapore to review the relevant provisions in order to provide the same treatment for Singapore as that provided for the third State.

It is understood that paragraph 6 of Article 10 and paragraph 7 of Article 12 shall not apply to a bona fide arrangement motivated by sound business reasons.

IN WITNESS WHEREOF the undersigned, duly authorised by their respective Governments, have signed this Agreement.

DONE in duplicate at Singapore this 21st day of August 2009 in the English language.

FOR THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE	FOR THE GOVERNMENT OF NEW ZEALAND
MOSES LEE COMMISSIONER OF INLAND REVENUE	H.E. MARTIN HARVEY HIGH COMMISSIONER

ANNEX A

Effects of the MLI on this Agreement

1. Deletion and replacement of the Preamble

The preamble of this Agreement is deleted and replaced by the following preamble:

"The Government of the Republic of Singapore and the Government of New Zealand,

Intending to conclude an Agreement to eliminate double taxation with respect to the taxes covered by this Agreement 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 agreement for the indirect benefit of residents of third jurisdictions),

Have agreed as follows:".

2. Amendment of Article 9

Paragraph 2 of Article 9 (Associated Enterprises) of this Agreement is deleted and replaced by the following paragraph:

"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 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 this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.".

3. Amendment of Article 10

Paragraph 6 of Article 10 (Dividends) of this Agreement is deleted.

4. Amendment of Article 12

Paragraph 7 of Article 12 (Royalties) of this Agreement is deleted.

5. Amendment of Article 22

Paragraph 3 of Article 22 (Mutual Agreement Procedure) of this Agreement is amended by inserting, immediately after the words "*or application of the Agreement.*", the words "They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.".

6. New Articles 22A to 22G (arbitration provisions)

The following articles shall be inserted immediately after Article 22 (Mutual Agreement Procedure). However, the articles shall not apply to this Agreement if a Contracting State raises an objection under Article 28(2)(b) of the MLI to the reservations that had been made by the other Contracting State under Article 28(2)(a) of the MLI. Such an objection may be raised by:

(a) Singapore, by 26 June 2019; or
(b) New Zealand, by 20 December 2019.

"**ARTICLE 22A – MANDATORY BINDING ARBITRATION**

1. Where:
   (a) under Article 22 (Mutual Agreement Procedure), a person has presented a case to the competent authority of a Contracting State on the basis that the actions of one or both of the Contracting States have resulted for that person in taxation not in accordance with the provisions of the Agreement; and
   (b) the competent authorities are unable to reach an agreement to resolve that case pursuant to Article 22 (Mutual Agreement Procedure) within a period of two years beginning on the start date referred to in paragraph 8 or 9, as the case may be (unless, prior to the expiration of that period the competent authorities of the Contracting States have agreed to a different time period with respect to that case and have notified the person who presented the case of such agreement),

any unresolved issues arising from the case shall, if the person so requests in writing, be submitted to arbitration in the manner described in this Article and Articles 22B to 22G, according to any rules or procedures agreed upon by the competent authorities of the Contracting States pursuant to the provisions of paragraph 10.

2. Where a competent authority has suspended the mutual agreement procedure referred to in paragraph 1 because a case with respect to one or more of the same issues is pending before court or administrative tribunal, the period provided in sub-paragraph (*b*) of paragraph 1 will stop running until either a final decision has been rendered by the court or administrative tribunal or the case has been suspended or withdrawn. In addition, where a person who presented a case and a competent authority have agreed to suspend the mutual agreement procedure, the period provided in sub-paragraph (*b*) of paragraph 1 will stop running until the suspension has been lifted.

3. Where both competent authorities agree that a person directly affected by the case has failed to provide in a timely manner any additional material information requested by either competent authority after the start of the period provided in sub-paragraph (*b*) of paragraph 1, the period provided in sub-paragraph (*b*) of paragraph 1 shall be extended for an amount of time equal to the period beginning on the date by which the information was requested and ending on the date on which that information was provided.

4. *(a)* The arbitration decision with respect to the issues submitted to arbitration shall be implemented through the mutual agreement concerning the case referred to in paragraph 1. The arbitration decision shall be final.
   (b) The arbitration decision shall be binding on both Contracting States except in the following cases:
      (i) if a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision. In such a case, the case shall not be eligible for any further consideration by the competent authorities. The mutual agreement that implements

the arbitration decision on the case shall be considered not to be accepted by a person directly affected by the case if any person directly affected by the case does not, within 60 days after the date on which notification of the mutual agreement is sent to the person, withdraw all issues resolved in the mutual agreement implementing the arbitration decision from consideration by any court or administrative tribunal or otherwise terminate any pending court or administrative proceedings with respect to such issues in a manner consistent with that mutual agreement.

(ii) if a final decision of the courts of one of the Contracting States holds that the arbitration decision is invalid. In such a case, the request for arbitration under paragraph 1 shall be considered not to have been made, and the arbitration process shall be considered not to have taken place (except for the purposes of Articles 22C (Confidentiality of Arbitration Proceedings) and 22F (Costs of Arbitration Proceedings)). In such a case, a new request for arbitration may be made unless the competent authorities agree that such a new request should not be permitted.

(iii) if a person directly affected by the case pursues litigation on the issues which were resolved in the mutual agreement implementing the arbitration decision in any court or administrative tribunal.

5. The competent authority that received the initial request for a mutual agreement procedure as described in sub-paragraph (*a*) of paragraph 1 shall, within two calendar months of receiving the request:

(a) send a notification to the person who presented the case that it has received the request; and

(b) send a notification of that request, along with a copy of the request, to the competent authority of the other Contracting State.

6. Within three calendar months after a competent authority receives the request for a mutual agreement procedure (or a copy thereof from the competent authority of the other Contracting State) it shall either:

(a) notify the person who has presented the case and the other competent authority that it has received the information necessary to undertake substantive consideration of the case; or

(b) request additional information from that person for that purpose.

7. Where pursuant to sub-paragraph (*b*) of paragraph 6, one or both of the competent authorities have requested from the person who presented the case additional information necessary to undertake substantive consideration of the case, the competent authority that requested the additional information shall, within three calendar months of receiving the additional information from that person, notify that person and the other competent authority either:

(a) that it has received the requested information; or

(b) that some of the requested information is still missing.

8. Where neither competent authority has requested additional information pursuant to sub-paragraph (*b*) of paragraph 6, the start date referred to in paragraph 1 shall be the earlier of:

(a) the date on which both competent authorities have notified the person

who presented the case pursuant to sub-paragraph (*a*) of paragraph 6; and

(b) the date that is three calendar months after the notification to the competent authority of the other Contracting State pursuant to sub-paragraph (*b*) of paragraph 5.

9. Where additional information has been requested pursuant to sub-paragraph (*b*) of paragraph 6, the start date referred to in paragraph 1 shall be the earlier of:

(a) the latest date on which the competent authorities that requested additional information have notified the person who presented the case and the other competent authority pursuant to sub-paragraph (*a*) of paragraph 7; and

(b) the date that is three calendar months after both competent authorities have received all information requested by either competent authority from the person who presented the case.

If, however, one or both of the competent authorities send the notification referred to in sub-paragraph (*b*) of paragraph 7, such notification shall be treated as a request for additional information under sub-paragraph (*b*) of paragraph 6.

10. The competent authorities of the Contracting States shall by mutual agreement (pursuant to Article 22 (Mutual Agreement Procedure)) settle the mode of application of the provisions contained in this Article and Articles 22B to 22G, including the minimum information necessary for each competent authority to undertake substantive consideration of the case. Such an agreement shall be concluded before the date on which unresolved issues in a case are first eligible to be submitted to arbitration and may be modified from time to time thereafter.

11. Notwithstanding the preceding paragraphs of this Article:

(a) any unresolved issue arising from a mutual agreement procedure case otherwise within the scope of the arbitration process provided for by this Agreement shall not be submitted to arbitration, if a decision on this issue has already been rendered by a court or administrative tribunal of either Contracting State;

(b) if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the Contracting States, a decision concerning the issue is rendered by a court or administrative tribunal of one of the Contracting States, the arbitration process shall terminate.

12. The provisions of this Article and Articles 22B to 22G shall not apply —

(a) to any case involving the application of Singapore's general anti avoidance rules contained in section 33 of the Act, case law or juridical doctrines, and any subsequent provisions (as notified by Singapore to the Depositary of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting done at Paris on 24 November 2016 (as amended from time to time)) that replace, amend or update these anti-avoidance rules; and

(b) to any case involving the application of any provisions of Singapore's law (including legislative provisions, case law, judicial doctrines and penalties) that are analogous to those governing the cases in sub-paragraphs (*c*) or (*d*), including any subsequent provisions which replace, amend or update

those provisions. The competent authority of Singapore will consult with the competent authority of New Zealand in order to specify any such analogous provisions which exist under Singapore law pursuant to paragraph 10;

(c) to any case involving the application of New Zealand's general anti-avoidance rule contained in section BG 1 of the Income Tax Act 2007 and any subsequent provisions (as notified by New Zealand to the Depositary of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting done at Paris on 24 November 2016 (as amended from time to time)) that replace, amend or update these anti-avoidance rules; and

(d) to any case involving the application of New Zealand's anti-avoidance rules concerning the avoidance of a permanent establishment in New Zealand and any subsequent provisions (as notified by New Zealand to the Depositary of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting done at Paris on 24 November 2016 (as amended from time to time)) that replace, amend or update these anti-avoidance rules.

13. This Article and Articles 22B to 22G —

(a) shall have effect with respect to cases presented to the competent authority of a Contracting State under Article 22 (Mutual Agreement Procedure) on or after 1 April 2019; and

(b) shall apply to a case presented to the competent authority of a Contracting State under Article 22 prior to 1 April 2019 only to the extent that the competent authorities of both Contracting States agree that it will apply to that specific case.

ARTICLE 22B – APPOINTMENT OF ARBITRATORS

1. Except to the extent that the competent authorities of the Contracting States mutually agree on different rules, paragraphs 2 through 4 shall apply for the purposes of Articles 22A to 22G.

2. The following rules shall govern the appointment of the members of an arbitration panel:

(a) The arbitration panel shall consist of three individual members with expertise or experience in international tax matters.

(b) Each competent authority shall appoint one panel member within 60 days of the date of the request for arbitration under paragraph 1 of Article 22A (Mandatory Binding Arbitration). The two panel members so appointed shall, within 60 days of the latter of their appointments, appoint a third member who shall serve as Chair of the arbitration panel. The Chair shall not be a national or resident of either Contracting State.

(c) Each member appointed to the arbitration panel must be impartial and independent of the competent authorities, tax administrations, and ministries of finance of the Contracting States and of all persons directly affected by the case (as well as their advisors) at the time of accepting an appointment, maintain his or her impartiality and independence throughout the proceedings, and avoid any conduct for a reasonable period of time thereafter which may damage the appearance of impartiality and independence of the arbitrators with respect to the proceedings.

3. In the event that the competent authority of a Contracting State fails to appoint a member of the arbitration panel in the manner and within the time periods specified in paragraph 2 or agreed to by the competent authorities of the Contracting States, a member shall be appointed on behalf of that competent authority by the highest ranking official of the Centre for Tax Policy and Administration of the Organisation for Economic Co-operation and Development that is not a national of either Contracting State.

4. If the two initial members of the arbitration panel fail to appoint the Chair in the manner and within the time periods specified in paragraph 2 or agreed to by the competent authorities of the Contracting States, the Chair shall be appointed by the highest ranking official of the Centre for Tax Policy and Administration of the Organisation for Economic Co-operation and Development that is not a national of either Contracting State.

ARTICLE 22C – CONFIDENTIALITY OF ARBITRATION PROCEEDINGS

1. Solely for the purposes of the application of Articles 22A to 22G and 23 and of the provisions of the domestic laws of the Contracting States related to the exchange of information, confidentiality, and administrative assistance, members of the arbitration panel and a maximum of three staff per member (and prospective arbitrators solely to the extent necessary to verify their ability to fulfil the requirements of arbitrators) shall be considered to be persons or authorities to whom information may be disclosed. Information received by the arbitration panel or prospective arbitrators and information that the competent authorities receive from the arbitration panel shall be considered information that is exchanged under Article 23 (Exchange of Information).

2. The competent authorities of the Contracting States shall ensure that members of the arbitration panel and their staff agree in writing, prior to their acting in an arbitration proceeding, to treat any information relating to the arbitration proceeding consistently with the confidentiality and nondisclosure obligations described in Article 23 (Exchange of Information) and under the applicable laws of the Contracting States.

ARTICLE 22D – RESOLUTION OF A CASE PRIOR TO THE CONCLUSION OF THE ARBITRATION

For the purposes of Articles 22 and 22A to 22G, the mutual agreement procedure, as well as the arbitration proceeding, with respect to a case shall terminate if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the Contracting States:

(a) the competent authorities of the Contracting States reach a mutual agreement to resolve the case; or

(b) the person who presented the case withdraws the request for arbitration or the request for a mutual agreement procedure.

ARTICLE 22E – TYPE OF ARBITRATION PROCESS

1. Except to the extent that the competent authorities of the Contracting States mutually agree on different rules, the following rules shall apply with respect to an arbitration proceeding pursuant to Articles 22A to 22G:

(a) After a case is submitted to arbitration, the competent authority of each Contracting State shall submit to the arbitration panel, by a date set by agreement, a proposed resolution which addresses all unresolved

issue(s) in the case (taking into account all agreements previously reached in that case between the competent authorities of the Contracting States). The proposed resolution shall be limited to a disposition of specific monetary amounts (for example, of income or expense) or, where specified, the maximum rate of tax charged pursuant to the Agreement, for each adjustment or similar issue in the case. In a case in which the competent authorities of the Contracting States have been unable to reach agreement on an issue regarding the conditions for application of a provision of the Agreement (hereinafter referred to as a "threshold question"), such as whether an individual is a resident or whether a permanent establishment exists, the competent authorities may submit alternative proposed resolutions with respect to issues the determination of which is contingent on resolution of such threshold questions.

(b) The competent authority of each Contracting State may also submit a supporting position paper for consideration by the arbitration panel. Each competent authority that submits a proposed resolution or supporting position paper shall provide a copy to the other competent authority by the date on which the proposed resolution and supporting position paper were due. Each competent authority may also submit to the arbitration panel, by a date set by agreement, a reply submission with respect to the proposed resolution and supporting position paper submitted by the other competent authority. A copy of any reply submission shall be provided to the other competent authority by the date on which the reply submission was due.

(c) The arbitration panel shall select as its decision one of the proposed resolutions for the case submitted by the competent authorities with respect to each issue and any threshold questions, and shall not include a rationale or any other explanation of the decision. The arbitration decision will be adopted by a simple majority of the panel members. The arbitration panel shall deliver its decision in writing to the competent authorities of the Contracting States. The arbitration decision shall have no precedential value.

2. Prior to the beginning of arbitration proceedings, the competent authorities of the Contracting States shall ensure that each person that presented the case and their advisors agree in writing not to disclose to any other person any information received during the course of the arbitration proceedings from either competent authority or the arbitration panel. The mutual agreement procedure under Article 22, as well as the arbitration proceeding under Articles 22A to 22G, with respect to the case shall terminate if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the Contracting States, a person that presented the case or one of that person's advisors materially breaches that agreement.

ARTICLE 22F – COSTS OF ARBITRATION PROCEEDINGS

In an arbitration proceeding under Articles 22A to 22G, the fees and expenses of the members of the arbitration panel, as well as any costs incurred in connection with the arbitration proceedings by the Contracting States, shall be borne by the Contracting States in a manner to be settled by mutual agreement between the competent authorities of the Contracting States. In the absence of such agreement, each Contracting State shall bear its own expenses and those of its appointed panel member. The cost of the chair of the arbitration panel and other expenses associated with the conduct of the arbitration proceedings shall be borne by the Contracting States in equal shares.

ARTICLE 22G – COMPATIBILITY

1. Any unresolved issue arising from a mutual agreement procedure case otherwise within the scope of the arbitration process provided for in this Article and Articles 22A to 22F shall not be submitted to arbitration if the issue falls within the scope of a case with respect to which an arbitration panel or similar body has previously been set up in accordance with a bilateral or multilateral convention that provides for mandatory binding arbitration of unresolved issues arising from a mutual agreement procedure case.

2. Nothing in this Article and Articles 22A to 22F shall affect the fulfilment of wider obligations with respect to the arbitration of unresolved issues arising in the context of a mutual agreement procedure resulting from other conventions to which the Contracting States are or will become parties.".

7. New Article 24A

The following new Article 24A is inserted immediately after Article 24 (Members of Diplomatic Missions and Consular Posts):

"**ARTICLE 24A – PREVENTION OF TREATY ABUSE**

1. Notwithstanding any provisions of this Agreement, a benefit under this Agreement 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 Agreement.

2. Where a benefit under this Agreement is denied to a person under provisions of this Agreement that deny all or part of the benefits that would otherwise be provided under this Agreement where the principal purpose or one of the principal purposes of any arrangement or transaction, or of any person concerned with an arrangement or transaction, was to obtain those benefits, the competent authority of the Contracting State that would otherwise have granted this benefit shall nevertheless treat that person as being entitled to this benefit, or to different benefits with respect to a specific item of income or capital, if such competent authority, upon request from that person and after consideration of the relevant facts and circumstances, determines that such benefits would have been granted to that person in the absence of the transaction or arrangement. The competent authority of the Contracting State to which a request has been made under this paragraph by a resident of the other Contracting State shall consult with the competent authority of the other Contracting State before rejecting the request.".

8. Amendment of Article VI of the Protocol

Article VI of the Protocol is amended by deleting the words "*It is understood that paragraph 6 of Article 10 and paragraph 7 of Article 12 shall not apply to a bona fide arrangement motivated by sound business reasons*." and substituting the words "It is understood that Article 24A shall not apply to a bona fide arrangement motivated by sound business reasons.".

9. Entry into effect of the MLI

The effects of the MLI on this Agreement, as laid out in this Annex, shall have effect in Singapore:

(a) for paragraph 5 of this Annex on the amendment of Article 22 (Mutual Agreement Procedure), for a case presented on or after 1 April 2019, without regard to the basis period to which the case relates. However, paragraph 5 of this Annex shall not apply to a case that was not eligible to be presented immediately before 1 April 2019;
(b) for paragraph 6 of this Annex on the arbitration provisions, with respect to any tax paid, deemed paid or liable to be paid, before, on or after 1 April 2019;
(c) for all other paragraphs in this Annex:
    (i) with respect to taxes withheld at source, in respect of amounts paid, deemed paid or liable to be paid (whichever is the earliest), on or after 1 January 2020; and
    (ii) with respect to taxes other than those withheld at source, where the income is derived or received in a basis period beginning on or after 1 October 2019.

ANNEX B

**Memorandum of Arrangement
on the Implementation of Part VI
of the Multilateral Convention to Implement Tax Treaty
Related Measures to Prevent Base Erosion and Profit
Shifting between Competent Authorities of the Republic of
Singapore and of New Zealand**

The competent authorities of the Republic of Singapore and of New Zealand (hereinafter referred to as the "Contracting States") have established this Memorandum of Arrangement (hereinafter referred to as the "Arrangement") concerning the mode of application of the arbitration process provided for in Part VI of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (hereinafter referred to as "the Convention"). This Arrangement comes into operation pursuant to Article 22 (Mutual Agreement Procedure) of the Agreement between the Government of the Republic of Singapore and the Government of New Zealand for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (hereinafter referred to as "the Covered Tax Agreement"), as modified by Article 16 of the Convention, and paragraph 10 of Article 19 of the Convention. The competent authorities may modify or supplement this Arrangement by an exchange of letters between them.

Definition

For the purposes of this Arrangement, the term "competent authority" means, in the case of the Republic of Singapore, the Minister for Finance or an authorised representative and, in the case of New Zealand, the Commissioner of Inland Revenue or an authorised representative of the Commissioner.

Section 1
Request for submission of case to arbitration

A request that unresolved issues arising from a mutual agreement procedure case be submitted to arbitration pursuant to paragraph 1 of Article 19 of the Convention (hereinafter referred to as the "request for arbitration") will be made in writing and sent to the competent authority of the Contracting State of residence of the person who presented the case. The request will contain sufficient information to identify the case. The request will also be accompanied by a written statement by each of the persons who either made the request or is directly affected by the case that no decision on the same issues has already been rendered by a court or administrative tribunal of the Contracting State. Within 10 days after the receipt of the request, a competent authority who received it without any indication that it was also sent to the other competent authority will send a copy of that request and the accompanying statements to the other competent authority.

Section 2
Minimum information necessary to undertake substantive consideration of the case

For purposes of Article 19 of the Convention, references to "the information necessary to undertake substantive consideration of the case" and "the minimum information necessary for each competent authority to undertake substantive consideration of the case" will be understood as follows:

a) for Singapore, the information set out in the IRAS e-tax guides entitled "Avoidance of Double Taxation Agreements (DTAs)" and "Transfer Pricing

Guidelines" which can be found on the IRAS website at www.iras.gov.sg, as such guides may be amended from time to time;

b) for New Zealand, the information and documentation which must be provided when making a request for Mutual Agreement Procedure as set out on the Mutual Agreement Procedure page on the Inland Revenue Department website, ird.govt.nz, as such guidance may be amended from time to time; and

c) any other specific additional information requested by the competent authority of a Contracting State within three calendar months after the receipt of the request for a mutual agreement procedure.

The competent authorities of the Contracting States will notify each other of any significant changes that are made with respect to the information requirements provided in their domestic guidance relevant to a request for a mutual agreement procedure.

Section 3
Appointment of arbitrators

1. In the circumstances described in paragraph 3 or paragraph 4 of Article 20 of the Convention, the highest ranking official of the Centre for Tax Policy and Administration of the Organisation for Economic Co-operation and Development who is not a national of either Contracting State will make the relevant appointment within 60 days after receiving a request to that effect from the person who made the request for arbitration. In the circumstances described in paragraph 4 of Article 20 of the Convention, the Chair of the arbitration panel will be appointed from the list that has been jointly decided by the competent authorities pursuant to paragraph 5 of this Section.

2. Except to the extent that the competent authorities jointly decide on different rules, the procedures provided in Article 20 of the Convention and Section 3 of this Arrangement will apply with the necessary adaptations if for any reason it is necessary to replace an arbitrator after the arbitration process has begun. In such circumstances, the competent authorities will also decide on necessary adaptations, as appropriate, to the deadlines provided in Section 4 of this Arrangement.

3. An arbitrator will be considered to have been appointed when a letter confirming that appointment and signed by both the arbitrator and the person or persons who have the power to appoint that arbitrator has been communicated to both competent authorities.

4. The competent authorities will appoint arbitrators who have expertise or experience in international tax matters. They need not, however, have experience as either a judge or arbitrator. Each arbitrator appointed to the arbitration panel will be impartial and independent of the competent authorities, tax administrations, and ministries of finance of the Contracting States and of all persons directly affected by the case (as well as their advisors and any related persons) at the time of accepting an appointment, maintain their impartiality and independence throughout the proceedings, and avoid any conduct for a reasonable period of time thereafter which may damage the appearance of impartiality and independence of the arbitrators with respect to the proceedings. In particular:

a) No arbitrator may be employed in any capacity by the competent authority, tax administration or ministry of finance of either Contracting State or by any person directly affected by the case (or by their advisors or any related persons) at the time of accepting their appointment.

b) No arbitrator will have been employed in any capacity by the competent authority, tax administration or ministry of finance of either Contracting State or by any person directly affected by the case (or by their advisors or any related persons) in the period of three years preceding their appointment.

c) No arbitrator will accept employment in any capacity with the competent authority, tax administration or ministry of finance of either Contracting State or with any person directly affected by the case (or with their advisors or any related persons) in the period of twenty-four months following their appointment.

d) Each arbitrator appointed to the arbitration panel will execute a written certification with respect to their impartiality and independence. The arbitrators will undertake to promptly disclose to both competent authorities, in writing, any new facts or circumstances that arise during or following the arbitration proceedings that might give rise to doubts with respect to their impartiality or independence.

For the purposes of this paragraph, a person who has accepted an appointment as an arbitrator in another arbitration proceeding pursuant to Part VI of the Convention, or pursuant to the provisions of any other bilateral or multilateral agreement providing for the arbitration of unresolved issues in a mutual agreement procedure case, will not be considered based on such appointment to be employed, or to have been employed, by the competent authority, tax administration or ministry of finance of a Contracting State.

5. If a competent authority becomes aware of a breach by an arbitrator of the impartiality and independence requirements referred to in paragraph 4 of this Section, that competent authority will bring that breach to the attention of the other arbitrators and the competent authority of the other Contracting State immediately. The competent authorities will then, based on the particular facts and circumstances of the case and the breach, jointly determine how to proceed and may, for example:

a) remove and replace the relevant arbitrator; or

b) terminate the arbitration proceeding and appoint a new arbitration panel.

6. The competent authorities will identify and jointly decide on a list of persons who are qualified and willing to serve as the Chair of an arbitration panel. The competent authorities will review and revise this list as necessary. The persons to be identified for purposes of this list will meet the requirements of paragraph 4 of this Section.

Section 4
Arbitration process

1. Within 90 days after the appointment of the Chair of the arbitration panel (unless, before the end of that period, the competent authorities jointly decide on a different period or jointly decide to use a different type of arbitration process with respect to the relevant case), the competent authority of each Contracting State will submit to each arbitrator and to the other competent authority a proposed resolution which addresses all unresolved issue(s) in the case (taking into account all agreements previously reached in that case between the competent authorities). The proposed resolution will be limited to a disposition of specific monetary amounts (for example, of income or expense) or, where specified, the maximum rate of tax that may be charged pursuant to the provisions of the Covered Tax Agreement (as it may be modified by the Convention), for each adjustment or similar issue in the case. In a case in which the competent authorities of the Contracting States have been unable to reach a mutual decision on an issue regarding the conditions for application of a provision of the Covered Tax Agreement (as it has been or may be modified by the Convention) (hereinafter referred to as a "threshold question"), such as whether an individual is a resident or whether a permanent establishment exists, the competent authorities may submit alternative proposed resolutions with respect to issues the determination of which is contingent on resolution of such threshold questions. The proposed resolution will not exceed five pages.

2. The competent authority of each Contracting State may also submit a supporting position paper for consideration by the arbitrators. Any such supporting position paper will be submitted to the arbitrators and to the other competent authority within the period of time provided for in paragraph 1. A supporting position paper will not exceed 30 pages, plus annexes. Any annex to a supporting position paper will be a document that was provided by one competent authority to the other, or by the person who presented the case to both competent authorities, for use in the negotiation of the mutual agreement procedure case.

3. In the event that the competent authority of one Contracting State fails to submit a proposed resolution within the period of time provided for in paragraph 1, the arbitration panel will select as its decision the proposed resolution submitted by the other competent authority.

4. Each competent authority may also submit a reply submission with respect to the proposed resolution and supporting position paper submitted by the other competent authority. Any such reply submission will be submitted to the arbitrators and to the other competent authority within 150 days after the appointment of the Chair of the arbitration panel. A reply submission will not exceed 10 pages.

5. As far as possible, the arbitrators will use tele- and videoconferencing to communicate between themselves and with both competent authorities. If a face-to-face meeting involving additional costs is necessary, the Chair will contact the competent authorities who will decide when and where the meeting should be held and will communicate that information to the arbitrators.

6. The arbitration panel will select as its decision one of the proposed resolutions for the case submitted by the competent authorities with respect to each issue and any threshold questions, and will not include a rationale or any other explanation of the decision. The arbitration decision will be adopted by a simple majority of the arbitrators. The arbitration decision will be

delivered to the competent authorities of the Contracting States in writing within 90 days after the reception by the arbitrators of the last reply submission or, if no reply submission has been submitted, within 180 days after the appointment of the Chair of the arbitration panel. The arbitration decision will have no precedential value.

Section 5
Communication of information and confidentiality

1. Each arbitrator will agree in writing, prior to acting in an arbitration proceeding, to abide by and be subject to the confidentiality and non-disclosure provisions of Article 23 (Exchange of Information) of the Covered Tax Agreement and of the applicable domestic laws of the Contracting States. If an arbitrator will use staff in connection with the performance of their duties, each staff member will execute a similar written agreement.

2. If a competent authority becomes aware of a breach by an arbitrator and/or their staff of the confidentiality and non-disclosure requirements referred to in Paragraph 1 of this Section, that competent authority will bring that breach to the attention of the other arbitrators and the competent authority of the other Contracting State immediately. The competent authorities will then, based on the particular facts and circumstances of the case and the breach, jointly determine how to proceed and may, for example:

a) remove and replace the relevant arbitrator; or

b) terminate the arbitration proceeding and appoint a new arbitration panel.

3. Before the Chair is appointed, the competent authorities will send any correspondence concurrently to both arbitrators.

4. After the Chair is appointed, unless jointly decided otherwise by the competent authorities and the Chair, the competent authorities will send any correspondence to the Chair (with a copy sent to the other competent authority). The Chair will send any correspondence from the arbitrators to the competent authorities concurrently to both competent authorities.

5. Except with regard to administrative or logistical matters, no arbitrator will have any ex parte communications with one competent authority with respect to the mutual agreement procedure case that resulted in the arbitration proceeding.

6. All communication, except with regard to administrative or logistical matters, between the arbitrators and the competent authorities will be in writing. Unless otherwise decided by the competent authorities, written communication by email is allowed to the extent that appropriate measures are taken to preserve the confidentiality of any information that may identify the person who presented the case. Express or priority mail or a courier service will be used for all correspondence other than that sent via email.

7. No substantive discussions may take place without all three arbitrators present.

8. No arbitrator will have communications regarding the issues or matters before the arbitration panel with:

a) the person who presented the case;

b) any other person whose tax liability to either Contracting State may be directly affected by a mutual agreement reached as a result of the case; or

c) their representatives or agents;

during or subsequent to the arbitration proceedings.

9. At the termination of the arbitration proceedings each arbitrator will immediately destroy all documents or other information received in connection with the proceedings.

Section 6
Operating procedures

1. To the extent needed, the arbitration panel may adopt any additional procedures necessary for the conduct of its business, provided that the procedures are not inconsistent with any provision of Part VI of the Convention or Article 22 (Mutual Agreement Procedure) of the Covered Tax Agreement, as modified by Article 16 of the Convention, and this Arrangement.

2. If the arbitration panel adopts any additional procedures, the Chair will provide a written copy of them to the competent authorities. These procedures will have effect only if both competent authorities so decide.

Section 7
Costs

1. Unless decided otherwise by the competent authorities:

a) each competent authority and the person who requested the arbitration will bear the costs related to its own participation in the arbitration proceedings (including travel costs and costs related to the preparation and presentation of its views);

b) each competent authority will bear the remuneration of the arbitrator appointed exclusively by that competent authority, or appointed by the highest ranking official of the Centre for Tax Policy and Administration of the Organisation for Economic Co-operation and Development that is not a national of either Contracting State because of the failure of that competent authority to appoint that arbitrator, together with that arbitrator's travel, telecommunication and secretariat costs;

c) the remuneration of the Chair of the arbitration panel and that Chair's travel, telecommunication and secretariat costs will be borne in equal shares by the two competent authorities;

d) other costs related to any meeting of the arbitration panel will be borne by the competent authority that hosts that meeting;

e) other costs related to expenses that both competent authorities have jointly decided to incur will be borne in equal shares by the two competent authorities.

2. Unless jointly decided otherwise by the competent authorities, compensation of the arbitrators will be determined as follows:

a) The fees of the arbitrators will be fixed at EUR 1000 per person per meeting, preparation or travel day. The reimbursement of the expenses of the arbitrators will be limited to the amount reasonably incurred in the course of carrying out their work. With regard to travel expenses, members of the arbitration panel will be reimbursed for business class.

b) Each arbitrator will be compensated for no more than three days of preparation, for two meeting days and for travel days. If the arbitration panel considers that it requires additional time to properly consider the case, the Chair will contact the competent authorities to request additional time.

Section 8
Failure to communicate the decision within the required period

In the event that the decision has not been communicated to the competent authorities within the period provided for in paragraph 6 of Section 4, as the case may be, or within any other period jointly decided by the competent authorities, the fees of each arbitrator will be limited to an amount jointly determined by the competent authorities at the time. In such a case, the competent authorities may jointly decide to appoint new arbitrators in accordance with Article 20 of the Convention and Section 3 of this Arrangement. The date of such decision to appoint new arbitrators will, for the purposes of the subsequent application of Article 20 of the Convention and Section 3 of this Arrangement, be deemed to be the date when the request for arbitration has been received by both competent authorities.

Section 9
Final decision

1. If a final decision by a court of one of the Contracting States holds that the arbitration decision is invalid, the arbitration decision will not be binding on the Contracting States. In such a case, the request for arbitration under paragraph 1 of Article 19 of the Convention will be considered not to have been made, and the arbitration process will be considered not to have taken place (except for the purposes of Article 21 (Confidentiality of Arbitration Proceedings) and Article 25 (Costs of Arbitration Proceedings) of the Convention and Sections 5 and 7 of this Arrangement). In such a case the person who made the request for arbitration may make a new request for arbitration, which will be accepted unless the competent authorities jointly decide that the actions of that person or its representatives were the main reason for the invalidation of the arbitration decision.

2. It is understood that subdivision ii) of subparagraph b) of paragraph 4 of Article 19 of the Convention is intended to apply where, under the domestic laws of a Contracting State, a court

has invalidated the arbitration decision based on a procedural or other failure or other conduct that has materially affected the outcome of the arbitration proceeding, which may include –

a) a violation of the impartiality or independence requirements applicable to arbitrators pursuant to Article 20 of the Convention and Section 3 of this Arrangement;

b) a breach of the confidentiality requirements applicable to arbitrators pursuant to Article 21 of the Convention and Section 5 of this Arrangement;

c) any other failure to adhere to the procedural requirements provided in Part VI of the Convention and this Arrangement; or

d) collusion between the person who presented the mutual agreement procedure request and one of the Contracting States.

3. It is understood that Section 9 of this Arrangement does not provide independent grounds for the invalidation of an arbitration decision where such grounds do not exist under the domestic laws of the Contracting States.

Section 10
Implementing the arbitration decision

The competent authorities will implement the arbitration decision within 90 days after the communication of the decision to them by reaching a mutual agreement referred to in paragraphs 2 and 3 of Article 22 (Mutual Agreement Procedure) of the Covered Tax Agreement on the case that led to arbitration.

Section 11
Entry into effect of Part VI (Arbitration) of the Convention

As provided by Article 36 (Entry into Effect of Part VI) of the Convention the provisions of Part VI (Arbitration) of the Convention will have effect with respect to cases presented to the competent authority of a Contracting Jurisdiction on or after the later of the dates on which the Convention has entered into force for each of the Contracting States.

Section 12
Reservations with respect to the scope of cases that will be eligible for arbitration under the provisions of Part VI of the Convention

Pursuant to subparagraph a) of paragraph 2 of Article 28 of the Convention, the following reservations have been made with respect to the scope of cases that will be eligible for arbitration under the provisions of Part VI of the Convention:

a) The Republic of Singapore reserves the right to exclude from the scope of Part VI (Arbitration) cases involving the application of its domestic general anti-avoidance rules

contained in Section 33 of the Income Tax Act, case law or juridical doctrines. Any subsequent provisions replacing, amending or updating these anti-avoidance rules would also be comprehended. The Republic of Singapore shall notify the Depositary of any such subsequent provisions.

Where a reservation made by the other Contracting Jurisdiction to a Covered Tax Agreement pursuant to Article 28(2)(a) refers exclusively to its domestic law (including legislative provisions, case law, judicial doctrines and penalties), the Republic of Singapore reserves the right to exclude from the scope of Part VI those cases that would be excluded from the scope of Part VI if the other Contracting Jurisdiction's reservation were formulated with reference to any analogous provisions of the Republic of Singapore's domestic law or any subsequent provisions which replace, amend or update those provisions. The competent authority of the Republic of Singapore will consult with the competent authority of the other Contracting Jurisdiction in order to specify any such analogous provisions which exist in the Republic of Singapore's domestic law in the agreement concluded pursuant to Article 19(10).

b) New Zealand reserves the right to exclude from the scope of Part VI (Arbitration) any case involving the application of New Zealand's general anti-avoidance rule contained in section BG 1 of the Income Tax Act 2007. Any subsequent provisions replacing, amending or updating these provisions are also included. The competent authority of New Zealand shall notify the Depositary of the Convention of any such subsequent provisions.

New Zealand reserves the right to exclude from the scope of Part VI (Arbitration) any case involving the application of anti-avoidance rules concerning the avoidance of a permanent establishment in New Zealand. For the purposes of the application of this reservation by New Zealand, "anti-avoidance rules concerning the avoidance of a permanent establishment" are contained in section GB 54 of the Income Tax Act 2007. Any subsequent provisions replacing, amending or updating these anti-avoidance rules are also included. The competent authority of New Zealand shall notify the Depositary of the Convention of any such subsequent provisions.

Signed in duplicate:

For the Competent Authority of the Republic of Singapore	For the Competent Authority of New Zealand
Ms. Angela Ang Assistant Commissioner, International Tax and Relations Division Inland Revenue Authority of Singapore	Mr. John Nash Strategic Advisor, International Inland Revenue Department
Date: 18 November 2024	Date: 21 November 2024

ANNEX C

**AGREEMENT BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE AND THE
GOVERNMENT OF NEW ZEALAND
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE
PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME**

The Government of the Republic of Singapore and the Government of New Zealand,

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 follow:

ARTICLE 1 – TAXES COVERED

1. The taxes which are the subject of this Agreement are:
   (a) in Singapore:

   the income tax;

   (b) in New Zealand:

   - the income tax and

   - the excess retention tax.

2. This Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes by either Contracting State or which are imposed by the Government of any Territory to which the Agreement is extended under Article 22.

3. For the purposes of paragraph 1(b) of this Article, the income tax does not include the bonus issue tax.

ARTICLE 2 – GENERAL DEFINITIONS

1. In this Agreement unless the context otherwise requires -

   (a) the term "Singapore" means the Republic of Singapore;

   (b) the term "New Zealand" includes the continental shelf of New Zealand as defined under the law of New Zealand concerning the continental shelf; it does not include the Cook Islands, Niue or the Tokelau Islands;

   (c) the terms "a Contracting State" and "the other Contracting State" mean Singapore or New Zealand as the context requires;

   (d) the term "person" includes an individual, a company and an unincorporated body of persons;

   (e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

   (f) the term "Singapore tax" means tax imposed by Singapore being tax to which this Agreement applies by virtue of Article 1; the term "New Zealand tax" means tax imposed by New Zealand being tax to which this Agreement applies by virtue of Article 1;

   (g) the term "tax" means Singapore tax or New Zealand tax, as the context requires;

   (h) the term "competent authority" means, in the case of Singapore, the Minister for Finance or his authorised representative, and, in the case of New Zealand, the Commissioner of Inland Revenue or his authorised representative;

   (i) the term "natural resource royalties" means payments of any kind to the extent to which they are made as consideration for the operation of, or the right to operate, any mine or quarry, or as consideration for the extraction, removal or other exploitation of, or the right to extract, remove or otherwise

exploit, standing timber or any natural resource;

(j) the term "industrial or commercial profits" means profits derived by an enterprise of a Contracting State from the carrying on of a trade or business, but does not include -

(i) dividends, interest, royalties (as defined in Article 10), or natural resource royalties; or

(ii) payments of any kind to the extent to which they are made as consideration for the use of, or the right to use, any copyright (other than copyright to which subparagraph (j)(i) applies) or any like property or right, or any property or right of a like nature to any property or right referred to in subparagraph (a)(i) of the definition of "royalties" in paragraph 2 of Article 10; or

(iii) payments of any kind to the extent to which they are made as consideration for the use of, or the right to use, any motion picture films, films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting; or

(iv) payments of any kind to the extent to which they are made as consideration for the supply of commercial knowledge, information, or assistance or of management services; or

(v) income from the sale or other disposition of land situated in the other Contracting State or of any estate or interest in land so situated, or from the sale or other disposition of any share or comparable interest in a company or association whose assets consist wholly or principally of any such land or any such estate or interest; or

(vi) income from the grant or renewal, or from the sale or other disposition, of any right relating to the operation of any mine or quarry situated in the other Contracting State or to the extraction, removal or other exploitation of any standing timber or of any natural resource so situated, or from the sale or other disposition of any share or comparable interest in a company or association whose assets consist wholly or principally of any such right; in this subparagraph (j)(vi), the term "right" means any right, licence, permit, authority, title, option, privilege or other concession and includes a share or interest in any right, licence, permit, authority, title, opinion, privilege or other concession; or

(vii) rent; or

(viii) charges for the bailment of livestock; or

(ix) profits from operating ships or aircraft; or

(x) remuneration or other income for personal (including professional) services; or

(xi) income from the furnishing of services of employees or others by any person in the course of the carrying on by that person of a profession or vocation;

(k) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean an enterprise carried on by a Singapore resident or an enterprise carried on by a New Zealand resident, as the context requires;

(l) words in the singular include the plural and words in the plural include the singular;

(m) the term "Malaysian company" means a company which, for the purposes of income tax in Malaysia, is resident in Malaysia.

2. In determining, for the purposes of Article 8, 9 or 10, whether dividends, interest or royalties are beneficially owned by a resident of a Contracting State, dividends, interest or royalties in respect of which a trustee is subject to tax in that Contracting State shall be treated as being beneficially owned by that trustee.

3. In this Agreement, the terms "Singapore tax" and "New Zealand tax" do not include any amount which represents a penalty or interest imposed under the law of either Contracting State relating to the taxes to which this Agreement applies by virtue of Article 1.

4. In the application of the provisions of this Agreement 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 to which this Agreement applies by virtue of Article 1.

ARTICLE 3 – FISCAL DOMICILE

1. For the purposes of this Agreement -

(a) the term "New Zealand resident" means a person who is resident in New Zealand for the purposes of New Zealand tax;

(b) the term "Singapore resident" means a person who is resident in Singapore for the purposes of Singapore tax.

2. Where by reason of the provisions of paragraph 1 of this Article an individual is both a New Zealand resident and a Singapore resident then his status shall, for the purposes of this Agreement, be determined as follows -

(a) he shall be treated solely as a New Zealand resident if he has a permanent home available to him in New Zealand and does not have a permanent home available to him in Singapore and solely as a Singapore resident if he has a permanent home available to him in Singapore and does not have a permanent home available to him in New Zealand; and

(b) failing a resolution of the matter under subparagraph (a) of this paragraph, he shall be treated solely as a New Zealand resident if he has an habitual abode in New Zealand and does not have an habitual abode in Singapore and solely as a Singapore resident if he has an habitual abode in Singapore and does not have an habitual abode in New Zealand; and

(c) failing a resolution of the matter under subparagraph (b) of this paragraph, he shall be treated solely as a New Zealand resident if the Contracting State with which his personal and economic relations are the closer is New Zealand and solely as a Singapore resident if the Contracting State with which his personal

and economic relations are the closer is Singapore.

3. Where, by reason of the provisions of paragraph 1 of this Article, a person other than an individual is both a New Zealand resident and a Singapore resident it shall, for the purposes of this Agreement, be treated solely as a New Zealand resident if the centre of its administrative or practical management is situated in New Zealand and solely as a Singapore resident if the centre of its administrative or practical management is situated in Singapore whether or not any person outside New Zealand or Singapore, as the case may be, exercises or is capable of exercising any overriding control of it or of its policy or affairs in any way whatsoever.

4. For the purposes of this Agreement the terms "a resident of a Contracting State" and "resident of the other Contracting State" mean a person who is a New Zealand resident or a person who is a Singapore resident, as the context requires.

ARTICLE 4 – PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement the term "permanent establishment", in relation to an enterprise, means a fixed place of trade or business in which the trade or business of the enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes –

(a) a place of management;
(b) a branch;
(c) an office;
(d) a factory;
(e) a workshop;
(f) a mine, quarry or other place of extraction of natural resources;
(g) a farm or plantation, or an agricultural, pastoral or forestry property; and
(h) a building site or a construction, installation or assembly project which exists for more than six months.

3. The term "permanent establishment" shall not be deemed 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 fixed place of trade or business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise; or

(d) the maintenance of a fixed place of trade or 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.

4. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State and to carry on trade or business through that permanent establishment if –

(a) it carries on supervisory activities in that other Contracting State for more than six months in connection with a building site, or a construction, installation or assembly project which is being undertaken, in that other Contracting State; or

(b) substantial equipment is in that other Contracting State being used or installed by, for or under contract with the enterprise.

5. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State (other than an agent of independent status to whom paragraph 6 of this Article applies) shall be deemed to be a permanent establishment of that enterprise in the first-mentioned Contracting State if -

(a) he has, and habitually exercises in that first-mentioned Contracting State, any 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) there is maintained in that first-mentioned Contracting State a stock of goods or merchandise belonging to the enterprise from which he habitually fills orders on behalf of the enterprise; or

(c) in so acting he carries out in that first-mentioned Contracting State activities of any of the kinds referred to in subparagraph (a)(i) or subparagraphs (a)(ii) or subparagraph (a)(iii) of paragraph 8 of this Article.

6. 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 trade or business in that other Contracting State through a broker, a general commission agent or any other agent of independent status, where such a person is acting in the ordinary course of his business as a broker, a general commission agent or other agent of independent status.

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 trade or business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute a place of business of either company a permanent establishment of the other.

8. In any case where paragraph 5 of this Article does not apply, an enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State and to carry on trade or business through that permanent establishment if -

(a) for, or at or to the order of, that enterprise, another enterprise -

(i) manufacturers, assembles, processes, packs or distributes in that other Contracting State any goods or merchandise; or

(ii) performs, in that other Contracting State, any mining or quarrying operations or any operations carried on in association with mining or quarrying operations, or performs, in that other Contracting State, any operations for the extraction, removal or other exploitation of standing timber or of any natural resource; or

(iii) breeds, manages, agists or raises in that other Contracting State any livestock; and

(b) either enterprise participates directly or indirectly in the management, control or capital of the other enterprise, or the same persons participate directly or

indirectly in the management, control or capital of both enterprises.

ARTICLE 5 – INDUSTRIAL OR COMMERCIAL PROFITS

1. Industrial or commercial profits of an enterprise of a Contracting State shall be subject to tax only in that Contracting State unless the enterprise carries on trade or business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on trade or business as aforesaid, tax may be imposed by that other Contracting State on the whole of the industrial or commercial profits of the enterprise from sources within that other Contracting State whether or not those profits are attributable to that permanent establishment.

2. Where an enterprise of a Contracting State carries on trade or business in the other Contracting State through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to make if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment; and the profits so attributed shall be deemed to be income derived from sources in that other Contracting State and shall be taxed accordingly.

3. In determining the industrial or commercial profits attributable to a permanent establishment in a Contracting State, there shall be allowed as deductions all expenses of the enterprise, including executive and general administrative expenses, which would be deductible if the permanent establishment were an independent enterprise and which are reasonably connected with the permanent establishment, whether incurred in the Contracting State in which the permanent establishment is situated or elsewhere.

4. If the information available to the competent authority of the Contracting State concerned is inadequate to determine the industrial or commercial profits to be attributed to the permanent establishment, nothing in this Article shall affect the application of the law of that Contracting State in relation to the liability of the enterprise to pay tax in respect of the permanent establishment on an amount determined by the exercise of a discretion or the making of an estimate by the competent authority of that Contracting State. Provided that the discretion shall be exercised or the estimate shall be made, so far as the information available to the competent authority permits, in accordance with the principle stated in this Article.

5. Industrial or commercial profits shall not be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. Nothing in this Article shall apply to either Contracting State to prevent the operation in the Contracting State of any provisions of its law at any time in force relating to the taxation of any income from business of any form of insurance.

ARTICLE 6 – 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 operative between the two enterprises in their commercial or financial relations which differ from those which might be expected to operate between independent enterprises dealing at arm's length, then any profits which, but for those conditions, might have been expected to accrue to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise.

2. Profits included in the profits of an enterprise of a Contracting State under paragraph 1 of this Article shall be deemed to be income of that enterprise derived from sources in that Contracting State and shall be taxed accordingly.

3. If the information available to the competent authority of a Contracting State is inadequate to determine, for the purposes of paragraph 1 of this Article, the profits which might have been expected to accrue to an enterprise, nothing in this Article shall effect the application of any law of that Contracting State in relation to the liability of that enterprise to pay tax on an amount determined by the exercise of a discretion or the making of an estimate by the competent authority of that Contracting State. Provided that the discretion shall be exercised or the estimate shall be made, so far as the information available to the competent authority permits, in accordance with the principle stated in this Article.

ARTICLE 7 – SHIPPING AND AIR TRANSPORT

1. A resident of a Contracting State shall, subject to paragraphs 2, 3 and 4 of Article 5 and to Article 6, be exempt from tax in the other Contracting State on profits from the operating of ships or aircraft other than operations confined solely to places in that other Contracting State.

2. The exemption provided in paragraph 1 of this Article shall apply in relation to the share of the profits from the operation of ships or aircraft derived by a resident of a Contracting State through participation in a pool service, in a joint transport operating organisation or in an international operating agency but only to the extent to which the share of the profits is not attributable to profits from voyages, flights or operations confined solely to places in the other Contracting State.

3. For the purposes of this Article and Article 18, profits derived from the carriage of passengers, livestock, mails, goods or merchandise shipped in a Contracting State for discharge at another place in that Contracting State shall be treated as profits from the operation of a ship or aircraft confined solely to places in that Contracting State.

ARTICLE 8 – DIVIDENDS

1. The New Zealand tax on dividends, being dividends paid by a company which is resident in New Zealand for the purposes of New Zealand tax, derived and beneficially owned by a Singapore resident, shall not exceed 15% of the gross amount of the dividends.

2. Subject to the provisions of this Article, dividends paid by a company which is resident in Singapore for the purposes of Singapore tax, and dividends paid by a Malaysian company out of profits derived from sources in Singapore, being dividends derived and beneficially owned by a New Zealand resident, shall be exempt from any tax in Singapore which may be chargeable on dividends in addition to the tax chargeable in respect of the profits of the Company.

3. Nothing in the preceding paragraph shall affect the provisions of Singapore law under which the tax in respect of a dividend paid by a company which is resident in Singapore for the purposes of Singapore tax, or paid by a Malaysian company out of profits derived from sources in Singapore, from which Singapore tax has been, or has been deemed to be,

deducted may be adjusted by reference to the rate of tax appropriate to the Singapore year of assessment immediately following that in which the dividend was paid.

4. If Singapore, subsequent to the signing of this Agreement, imposes a tax on dividends paid by a company which is resident in Singapore for the purposes of Singapore tax or paid by a Malaysian company out of profits derived from sources in Singapore, which is in addition to the tax chargeable in respect of the profits of the company, such tax may be charged but the tax so charged on such dividends derived and beneficially owned by a New Zealand resident shall not exceed 15% of the gross amount of the dividends.

5. Paragraphs 1, 2 and 4 of this Article shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, has in the other Contracting State a permanent establishment and the holding giving rise to the dividends is effectively connected with that permanent establishment.

6. Dividends paid by a company which is a resident of a Contracting State, being dividends which are derived and beneficially owned by a person who is not a resident of the other Contracting State, shall be exempt from tax in that other Contracting State. Provided that this paragraph shall not apply in relation to dividends paid by any company which is resident in Singapore for the purposes of Singapore tax and which is also resident in New Zealand for the purposes of New Zealand tax.

7. Nothing in the foregoing paragraphs of this Article shall affect the taxation of the company in respect of the profits out of which the dividends are paid.

ARTICLE 9 – INTEREST

1. The tax of a Contracting State on interest derived from sources in that Contracting State and beneficially owned by a resident of the other Contracting State shall not exceed 15% of the gross amount of the interest.

2. Paragraph 1 of this Article shall not apply if the person who is the beneficial owner of the interest, being a resident of a Contracting State, has in the other Contracting State a permanent establishment and the indebtedness giving rise to the interest is effectively connected with that permanent establishment.

3. Paragraph 1 of this Article shall not apply where the person paying the interest and the person who is the beneficial owner of the interest are associated with each other. For the purposes of this paragraph a person is associated with another person if either person controls directly or indirectly the other or if any third person controls directly or indirectly both. For this purpose, the term "control" includes any kind of control, whether or not legally enforceable, and however exercised or exercisable.

4. Where the application of paragraph 1 of this Article to any interest is not excluded by virtue of the foregoing provisions of this Article but owing to a special relationship between the person paying the interest and the person who is the beneficial owner of the interest, or between both of them and some other person, the amount of the interest paid exceeds the amount which might have been expected to have been agreed upon in the absence of such relationship paragraph 1 of this Article shall apply only to the last-mentioned amount.

ARTICLE 10 – ROYALTIES

1. The tax of a Contracting State on royalties derived from sources in that Contracting State and beneficially owned by a resident of the other Contracting State shall not exceed 15% of the gross amount of the royalties.

2. In this Article, the term "royalties" means payments of any kind to the extent to which they are made as consideration for -

(a) the use of or the right to use any -

(i) copyright of scientific work for use in trade or industry, patent, design or model, plan, secret formula or process, or trade mark; or

(ii) industrial, commercial or scientific equipment; or

(b) the supply of -

(i) scientific, technical or industrial knowledge or information; or

(ii) any assistance which is given as a means of enabling the application or enjoyment of such knowledge or information;

but does not include natural resource royalties or payments referred to in subparagraph (j)(ii), subparagraph (j)(iii) or subparagraph (j)(iv) of paragraph 1 of Article 2.

3. Paragraph 1 of this Article shall not apply if the person who is the beneficial owner of the royalties, being a resident of a Contracting State, has in the other Contracting State a permanent establishment and the knowledge, information, assistance, right or property giving rise to the royalties is effectively connected with that permanent establishment.

4. Where, owing to a special relationship between the person paying the royalties and the person who is the beneficial owner of the royalties, or between both of them and some other person, the amount of the royalties paid exceeds the amount which might have been expected to have been agreed upon in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount.

ARTICLE 11 – PERSONAL SERVICES

1. Subject to Articles 14 and 15, remuneration or income (other than pensions) derived by an individual who is a resident of a Contracting State in respect of personal (including professional) services may be taxed only in that Contracting State unless the services are performed in the other Contracting State. If the services are so performed, such remuneration or income as is derived in respect thereof shall be deemed to have a source in, and may be taxed in, that other Contracting State.

2. Notwithstanding paragraph 1 of this Article, remuneration or income (other than pensions) derived by a resident of a Contracting State in respect of personal (including professional) services performed in the other Contracting State shall be exempt from tax in that other Contracting State if -

(a) the recipient is present in that other Contracting State for a period or periods not exceeding in the aggregate 183 days in the income year or the basis period for the year of assessment, as the case may be, of that other Contracting State; and

(b) the remuneration is paid by or on behalf of a person who is a resident of the first-mentioned Contracting State; and

(c) the remuneration or income is not borne by a permanent establishment which

that person has in that other Contracting State.

3. Notwithstanding paragraphs 1 and 2 of this Article, remuneration derived by a resident of a Contracting State in respect of employment exercised aboard a ship or aircraft operating in international traffic shall be taxable only in that Contracting State.

ARTICLE 12 – DIRECTORS' FEES

Notwithstanding anything contained in Article 11, directors' fees and 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 shall be deemed to have a source in, and may be taxed in, that other Contracting State.

ARTICLE 13 – PUBLIC ENTERTAINERS AND ATHLETES

1. Notwithstanding anything contained in Article 11, remuneration or income derived by public entertainers (such as theatrical, motion picture, radio or television artistes and musicians) and by athletes from their personal activities as such shall be deemed to have a source in, and may be taxed in, the Contracting State in which these activities are exercised.

2. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State and to carry on trade or business through that permanent establishment if it provides the services of a public entertainer or athlete referred to in paragraph 1 of this Article in that other Contracting State.

ARTICLE 14 – GOVERNMENTAL FUNCTIONS

1. Remuneration (other than pensions) paid by the Government of Singapore to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from New Zealand tax, except where the individual is resident in New Zealand for the purposes of New Zealand tax and is not a Singapore citizen.

2. Remuneration (other than pensions) paid by the Government of New Zealand to an individual for services rendered to that Government in the discharge of governmental functions shall be exempt from Singapore tax, except where the individual is resident in Singapore for the purposes of Singapore tax and is not a New Zealand citizen.

3. This Article shall not apply to any remuneration in respect of services rendered in connection with any trade or business carried on by either Government for the purposes of profit.

ARTICLE 15 – STUDENTS AND TRAINEES

A student or trainee who is, or was immediately before visiting a Contracting State, a resident of the other Contracting State and is present in the first-mentioned Contracting State solely for the purpose of his education or training shall not be taxed in that first-mentioned Contracting State on payments (including salary or wages) to the extent to which he receives such payments for the purpose of his maintenance, education or training provided that such payments are made to him from outside that first-mentioned Contracting State.

ARTICLE 16 – DUAL RESIDENTS RECEIVING INCOME

1. This Article shall apply to a person who is resident in Singapore for the purposes of Singapore tax and is also resident in New Zealand for the purposes of New Zealand tax.

2. Where such a person is treated for the purposes of this Agreement solely as a resident of a Contracting State he shall be exempt in the other Contracting State from tax on income other than income which, under the law of that other Contracting State or under this Agreement, is derived, or is deemed to be derived, from sources in that other Contracting State.

ARTICLE 17 – LIMITATION OF RELIEF

Where this Agreement provides (with or without conditions) that income from sources in a Contracting State shall be exempt from tax, or taxed at a reduced rate, in that Contracting State and under the laws in force in the other Contracting State the said income is subject to tax by reference to the amount thereof which is remitted to or received in that other Contracting State and not by reference to the full amount thereof, then the exemption or reduction of tax to be allowed under this Agreement in the first-mentioned Contracting State shall apply only to so much of the income as is remitted to or received in that other Contracting State.

ARTICLE 18 – SOURCES OF INCOME

1. For the purposes of this Agreement -

(a)

(i) dividends paid by a company which is resident in Singapore for the purposes of Singapore tax to a New Zealand resident shall be treated as income from sources in Singapore;

(ii) dividends paid by a Malaysian company out of profits derived from sources in Singapore to a New Zealand resident shall be treated as income from sources in Singapore;

(b) dividends paid by a company which is resident in New Zealand for the purposes of New Zealand tax to a Singapore resident shall be treated as income from sources in New Zealand;

(c) profits derived by a resident of a Contracting State from the operation of ships or aircraft, being profits from operations confined solely to places in the other Contracting State, shall be treated as having a source in that other Contracting State;

(d) interest shall be treated as having a source in a Contracting State where the person paying the interest is the Government of that Contracting State or a resident of that Contracting 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 and the interest is borne by such permanent establishment, then such interest shall be treated as having a source in the Contracting State in which the permanent establishment is situated;

(e) royalties (as defined in Article 10) and payments referred to in subparagraph (j)(ii), subparagraph (j)(iii) or subparagraph (j)(iv) of paragraph 1 of Article 2 shall be treated as having a source in a Contracting State where the person paying such royalties or making such payments is the Government of that Contracting State or a resident of that Contracting State. Where, however, the person paying such royalties or making such payments, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent

establishment and such royalties or payments are borne by such permanent establishment, then such royalties or payments shall be treated as having a source in the Contracting State in which the permanent establishment is situated;

(f) natural resource royalties and income referred to in subparagraph (j)(v), subparagraph (j)(vi) or subparagraph (j)(vii) of paragraph 1 of Article 2 derived by a resident of a Contracting State shall be treated as derived from sources in the other Contracting State if the land, mine, quarry, natural resource, standing timber or rent-producing property is situated in that other Contracting State.

2. Notwithstanding anything contained in Article 16 where income of any of the kinds referred to in paragraph 1 of this Article is derived by a resident of a Contracting State and is not, under the provisions of that paragraph, treated as having a source in the other Contracting State, such income shall be exempt from tax in that other Contracting State.

ARTICLE 19 – ELIMINATION OF DOUBLE TAXATION

1. Subject to any provisions of the laws of Singapore which may from time to time be in force and which relate to the allowance of a credit against Singapore tax of tax paid in a country outside Singapore (which shall not affect the general principles hereof), New Zealand tax paid under the law of New Zealand and in accordance with this Agreement, whether directly or by deduction, in respect of income derived by a Singapore resident from sources in New Zealand (excluding, in the case of a dividend, tax paid in respect of profits out of which the dividend is paid) shall be allowed as a credit against Singapore tax payable in respect of that income. However, where such income is a dividend paid by a company which is a New Zealand resident to a company which is a Singapore resident and which beneficially owns at least 10% of the paid-up share capital in the first-mentioned company the credit shall take into account (in addition to any New Zealand tax on dividends) the New Zealand tax paid by the first-mentioned company in respect of its profits.

2. Subject to any provisions of the laws of New Zealand which may from time to time be in force and which relate to the allowance of a credit against New Zealand tax of tax paid in a country outside New Zealand (which shall not affect the general principles hereof), Singapore tax paid under the law of Singapore and in accordance with this Agreement, whether directly or by deduction, in respect of income derived by a New Zealand resident from sources in Singapore (excluding, in the case of a dividend, tax paid in respect of the profits out of which the dividend is paid) shall be allowed as a credit against New Zealand tax payable in respect of that income. However, where a company which is a New Zealand resident beneficially owns at least 10% of the paid-up share capital in a company which is a Singapore resident, any dividend derived by the first-mentioned company from the second-mentioned company (being dividends which, in accordance with the taxation law of New Zealand in existence at the date of signature of this Agreement, would be exempt from New Zealand tax) shall be exempt from New Zealand tax and shall not be taken into account for the purpose of determining the rate of New Zealand tax payable in respect of any other income derived by that first-mentioned company.

3. For the purposes of paragraph 2 of this Article, a New Zealand resident deriving income from sources in Singapore consisting of -

(a) profits, being profits in respect of which an exemption from Singapore tax has been granted under the provisions of the Economic Expansion Incentives (Relief from Income Tax) Act, (Chapter 135) of Singapore; or

(b) interest or royalties, being interest or royalties in respect of which an exemption from or reduction of Singapore tax has been granted under the provisions of the said Economic Expansion Incentives (Relief from Income Tax) Act, (Chapter 135) -

shall be deemed to have paid Singapore tax in an amount or, as the case may be, the Singapore tax paid shall be deemed to have been increased by an amount equal to the amount by which the Singapore tax that otherwise would have been payable under the law of Singapore and in accordance with this Agreement in respect of those profits or, as the case may be, that interest or those royalties is reduced by the exemption or reduction granted.

4. Every reference in paragraph 3 of this Article to the Economic Expansion Incentives (Relief from Income Tax) Act, (Chapter 135) shall be deemed to include a reference to any other law which is imposed in Singapore after the date of signature of this Agreement in modification of, or in addition to, or in substitution for, that Act and which is agreed, in an Exchange of Letters between the Contracting States, to be of a substantially similar character to the provisions of that Act as in force at the date of signature of this Agreement.

ARTICLE 20 – MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the action of the competent authorities in a Contracting State has resulted, or is likely to result, in double taxation contrary to the provisions of this Agreement, he shall be entitled to present the facts to the competent authority in the Contracting State of which he is a resident and, should his claim be deemed worthy of consideration, the competent authority in that Contracting State shall endeavour to come to an agreement with the competent authority in the other Contracting State with a view to the avoidance of the double taxation in question.

2. The competent authority in a Contracting State may communicate directly with the competent authority in the other Contracting State for the purpose of giving effect to the provisions of this Agreement and in an endeavour to assure its consistent interpretation and application.

ARTICLE 21 – EXCHANGE OF INFORMATION

1. The competent authorities shall exchange such information (being information available under the respective taxation laws of the Contracting States) as is necessary for carrying out the provisions of this Agreement or for the prevention of fraud or for the administration of statutory provisions against avoidance of the taxes to which this Agreement applies by virtue of Article 1.

2. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those (including a Court or reviewing authority) concerned with the assessment or collection of the taxes to which this Agreement applies by virtue of Article 1, or the determination of appeals in relation thereto.

3. No information shall be exchanged which would disclose any trade secret or trade process, or which would be contrary to public policy.

ARTICLE 22 – TERRITORIAL EXTENSION

1. This Agreement may be extended, either in its entirety or with modifications, to any Territory for whose international relations either Contracting State is responsible, and which imposes taxes substantially similar in character to those which are the subject of this Agreement and any such extension shall take effect from such date and subject to such modifications and conditions (including conditions as to termination) as may be specified and

agreed between the Contracting States in Letters to be exchanged for this purpose.

2. The termination by Singapore or New Zealand of this Agreement under Article 24 shall, unless otherwise expressly agreed by both Contracting States, terminate the application of this Agreement to any Territory to which it has been extended under this Article.

ARTICLE 23 – ENTRY INTO FORCE

This Agreement shall enter into force on a date to be agreed by Exchange of Letters between the Contracting States and shall thereupon have effect -

(a) in Singapore -

for any year of assessment beginning on or after 1 January 1974;

(b) in New Zealand -

in respect of income derived during any income year beginning on or after 1 April 1973.

ARTICLE 24 – TERMINATION

This Agreement shall continue in effect indefinitely, but either Contracting State may, on or before 30 June in any calendar year after the year 1976 give to the other Contracting State written notice of termination and, in that event, this Agreement shall cease to be effective -

(a) in Singapore -

for any year of assessment beginning on or after 1st January in the second calendar year immediately following that in which the notice is given;

(b) in New Zealand -

in respect of income derived during any income year beginning on or after 1st April in the calendar year immediately following that in which the notice is given.

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

DONE at Singapore in duplicate this 21st day of August one thousand nine hundred and seventy-three in the English language.

For the Government of
The Republic of Singapore

For the Government of
New Zealand

PROTOCOL (1973)

The Government of the Republic of Singapore and the Government of New Zealand have agreed that the following provisions shall form an integral part of the Agreement:

On or before 30 June in any calendar year after the year 1976 the Government of New Zealand may give to the Government of the Republic of Singapore written notice to the effect that the provisions of paragraphs 3 and 4 of Article 19 shall cease to have force or effect, and, in that event, the provisions of those paragraphs shall cease to have any force or effect in New Zealand in respect of income derived during any income year beginning on or after 1 April in the calendar year immediately following that in which the notice is given.

This protocol shall enter into force on the same date as the Agreement.

DONE at Singapore in duplicate this 21st day of August one thousand nine hundred and seventy-three in the English language.

For the Government of *The Republic of Singapore*	*For the Government of* *New Zealand*

ANNEX D

THIRD PROTOCOL TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE AND THE GOVERNMENT OF NEW ZEALAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the Republic of Singapore and the Government of New Zealand,

Having regard to the Agreement between the Government of the Republic of Singapore and the Government of New Zealand for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income done at Singapore on 21 August 1973 (hereinafter referred to as "the Agreement"),

Have agreed that the following provisions shall form an integral part of the Agreement:

ARTICLE I

Subparagraph (j)(iv) of paragraph 1 of Article 2 of the Agreement shall be deleted and replaced by the following:

"(j)(iv) payments of any kind to the extent to which they are made as consideration for the supply of commercial knowledge, information, or assistance which is given as a means of enabling the application or enjoyment of such knowledge or information; or"

ARTICLE II

Subparagraph (j)(x) and subparagraph (j)(xi) of paragraph 1 of Article 2 of the Agreement shall be deleted and replaced by the following subparagraph (j)(x):
"(j)(x) income from the performance of services as defined in Article 11;"

ARTICLE III

Subparagraphs (a) and (b) of paragraph 4 of Article 4 of the Agreement shall be deleted and replaced by the following subparagraphs (a), (b) and (c):

"(a) it carries on supervisory activities in that other Contracting State for more than six months in connection with a building site, or a construction, installation or assembly project which is being undertaken, in that other Contracting State; or

(b) substantial equipment is in that other Contracting State being used or installed by, for or under contract with the enterprise; or

(c) it furnishes services, including consultancy services, through employees or other personnel engaged by the enterprise for such purpose, within the other Contracting State for a period or periods aggregating more than 183 days within any twelve-month period commencing or ending in the year of income concerned or the basis period for the year of assessment, as the case may be."

ARTICLE IV

Article 11 of the Agreement shall be deleted and replaced by the new Article 11 and 11A as follows:

"Article 11 – Independent Personal Services

1. Income derived by an individual who is a resident of a Contracting State from the performance of professional services or other activities of an independent 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 the individual has a fixed base regularly available in the other State for the purpose of performing such services or 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 the individual's stay in the other State is for a period or periods exceeding in the aggregate 183 days within any twelve-month period commencing or ending in the year of income concerned or the basis period for the year of assessment, as the case may be; in that case, only so much of the income as is derived from such services or activities performed in that other State may be taxed in that other State.

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 11A – Income from Employment

1. Subject to the provisions of Articles 12 and 14, salaries, wages and other similar remuneration (other than pensions) 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 (other than pensions) 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 within any twelve-month period commencing or ending in the year of income concerned or the basis period for the year of assessment, as the case may be; and

(b) the remuneration is paid by, or on behalf of, an employer who is not resident of the other State; and

(c) the remuneration is not borne by or deductible in determining the taxable profits of a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding paragraphs 1 and 2 of this Article, remuneration (other than pensions) derived by a resident of a contracting state in respect of an employment exercised aboard a ship or aircraft operating in international traffic shall be taxable only in that State."

ARTICLE V

Article 12 of the Agreement shall be deleted and replaced by the following:
"Article 12 – Directors' Fees
Directors' fees and similar payments derived by a resident of a Contracting State in that resident's capacity as a member of the board of directors of a company which is a resident of the other Contracting State shall be deemed to have a source in, and may be taxed in, that other State."

ARTICLE VI

The words "Article 11" in paragraph 1 of Article 13 of the Agreement shall be deleted and replaced by "Articles 5, 11 and 11A".

ARTICLE VII

Article I to VI of this Third Protocol shall apply to income derived on or after 1st January 2006.

ARTICLE VIII

1. The Contracting States shall notify each other through diplomatic channels that the constitutional requirements for the entry into force of this Third Protocol have been complied with.

2. This Third Protocol shall enter into force on the date of the later of the notification referred to in paragraph 1 of this Article.

Done at Singapore in duplicate this 5th day of September 2005 in the English language.

FOR THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE	FOR THE GOVERNMENT OF NEW ZEALAND
MOSES LEE COMMISSIONER OF INLAND REVENUE	RICHARD GRANT HIGH COMMISSIONER OF NEW ZEALAND TO SINGAPORE

ANNEX E

PROTOCOL (1993)

SECOND PROTOCOL TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE AND THE GOVERNMENT OF NEW ZEALAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the Republic of Singapore and the Government of New Zealand,

Having regard to the Agreement between the Government of the Republic of Singapore and the Government of New Zealand for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income done at Singapore on 21 August 1973 (hereinafter referred to as "the Agreement"),

Have agreed that the following provisions shall form an integral part of the Agreement:

ARTICLE I

Notwithstanding paragraph 3 of Article 19 of the Agreement, a New Zealand resident deriving income from Singapore, being income referred to in that paragraph, shall not be deemed to have paid Singapore tax in respect of such income where the competent authority of New Zealand considers, after consultation with the competent authority of Singapore, that it is inappropriate to do so having regard to:

(a) whether any arrangements have been entered into by any person for the purpose of taking advantage of paragraph 3 of Article 19 for the benefit of that person or any other person;

(b) whether any benefit accrues or may accrue to a person who is neither a New Zealand resident nor a Singapore resident;

(c) the prevention of fraud or the avoidance of the taxes to which the Agreement applies;

(d) any other matter which the competent authorities consider relevant in the particular circumstances of the case including any submissions from the New Zealand resident concerned.

ARTICLE II

Article I of this Second Protocol shall apply to income derived on or after 1 July 1993.

ARTICLE III

1. The Contracting States shall notify each other through diplomatic channels that the constitutional requirements for the entry into force of this Second Protocol have been complied with.

2. This Second Protocol shall enter into force on the date of the later of the notification referred to in paragraph 1 of this Article.

DONE at Singapore in duplicate this 1st day of July 1993 in the English language.

FOR THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE	FOR THE GOVERNMENT OF NEW ZEALAND
KOH YONG GUAN	COLIN V. BELL