

**AGREEMENT BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE
AND
THE GOVERNMENT OF THE GRAND DUCHY OF LUXEMBOURG
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

Date of Conclusion: 9 October 2013

Entry into Force: 28 December 2015

Effective Date: 1 January 2016

NOTE

Singapore and Luxembourg 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 Luxembourg ratified the MLI on 21 December 2018 and 9 April 2019 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-Luxembourg) (Avoidance of Double Taxation Agreement) (Modifications to Implement Multilateral Instrument) Order 2019, which has entered into force on 1 August 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.

NOTE

There was an earlier Agreement signed between the Government of the Republic of Singapore and the Government of the Grand Duchy of Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital.

The text of this Agreement which was signed on 6 March 1993 is shown in Annex B.

The Government of the Republic of Singapore and the Government of the Grand Duchy of Luxembourg,

Desiring to conclude an Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital,

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. This Agreement shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property.
3. The existing taxes to which the Agreement shall apply are in particular:
 - (a) in Singapore:
 - the income tax
 - (hereinafter referred to as "Singapore tax");
 - (b) in Luxembourg:
 - (i) the income tax on individuals (l'impôt sur le revenu des personnes physiques);
 - (ii) the corporation tax (l'impôt sur le revenu des collectivités);
 - (iii) the capital tax (l'impôt sur la fortune); and
 - (iv) the communal trade tax (l'impôt commercial communal);(hereinafter referred to as "Luxembourg tax").
4. 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 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 "Singapore" means the Republic of Singapore and, when used in a geographical sense, includes its land territory, internal waters and territorial sea, as well as any maritime area situated beyond the territorial sea which has been or might in the future be designated under its national law, in accordance with international law, as an area within which Singapore may exercise sovereign rights or jurisdiction with regards to the sea, the sea-bed, the subsoil and the natural resources;
 - (b) the term "Luxembourg" means the Grand Duchy of Luxembourg and, when used in a geographical sense, means the territory of the Grand Duchy of Luxembourg;
 - (c) the term "person" includes an individual, a company and any other body of persons;
 - (d) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - (e) 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;
 - (f) 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;
 - (g) the term "competent authority" means:
 - (i) in Singapore, the Minister for Finance or his authorised representative;
 - (ii) in Luxembourg, the Minister of Finance or his authorised representative;
 - (h) 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.
2. 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 his domicile, residence, place of management or any other criterion of a similar nature, and also includes that State and any 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 his status shall be determined as follows:

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

ARTICLE 5 – PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
 - (a) a place of management;
 - (b) a branch;
 - (c) an office;
 - (d) a factory;
 - (e) a workshop; and
 - (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. The term "permanent establishment" also encompasses:
 - (a) a building site, a construction, assembly, installation or dredging project or supervisory activities in connection therewith, but only if such site, project or activities lasts more than 12 months;
 - (b) the furnishing of services, including consultancy services, by an enterprise of a Contracting State through employees or other personnel engaged by the enterprise for such purpose, but only if activities of that nature continue (for the same or a connected project) within the other Contracting State for a period or periods aggregating more than 365 days in any 15-month period.
4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:
 - (a) the use of facilities solely for the purpose of storage, 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.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of 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 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. 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.

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 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 or forestry) 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 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 and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats 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 and to income from immovable property used for the performance of independent personal services.

ARTICLE 7- BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that 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. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8 – 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. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.
3. 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;
 - (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; and
 - (c) interest on funds connected with the operations of ships or aircraft;

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

ARTICLE 9 – ASSOCIATED ENTERPRISES

1. Where

- (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that 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 agreed 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 shall, if the recipient is the beneficial owner of the dividends, be taxable only in that other State. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

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

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

4. 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 or a fixed base 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.

ARTICLE 11 – INTEREST

1. Interest arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.
2. 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. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
4. 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 7 per cent of the gross amount of the royalties.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 13 – CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other 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 or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.
3. Gains derived by a resident of a Contracting State 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 that State.
4. Gains from the alienation of any property other than that referred to in the preceding paragraphs of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 14 – INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other 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 he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or
- (b) if his stay in the other Contracting State is for a period or periods exceeding in the aggregate 365 days in any 15-month period; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

ARTICLE 15 – DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18 and 19, 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 calendar year 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 a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised 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 16 – DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

ARTICLE 17 – ARTISTES AND SPORTSPERSONS

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

2. Where income in respect of or in connection with personal activities exercised by an entertainer or a sportsperson accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a Contracting State by an artiste 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 local authorities or statutory bodies thereof. In such case, the income shall be taxable only in the Contracting State in which the artiste or the sportsperson is a resident.

ARTICLE 18 – PENSIONS

1. Subject to the provisions of paragraph 2 of Article 19, 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. Notwithstanding the provisions of paragraph 1, pensions and other payments made under a social security scheme of a Contracting State shall be taxable only in that State.
3. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration (including lump-sum payments) arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in the first-mentioned State, provided that such payments derive from contributions paid to or from provisions made under a pension scheme by the recipient or on his behalf and that these contributions, provisions or the pensions or other similar remuneration have been subjected to tax in the first-mentioned State under the ordinary rules of its tax laws.

ARTICLE 19 – GOVERNMENT SERVICE

1. (a) Salaries, wages and other similar remuneration paid by a Contracting State or a local authority or a statutory body thereof to an individual in respect of services rendered to that State 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, pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or a local authority or a statutory body thereof to an individual in respect of services rendered to that State or authority or body shall be taxable only in that State.

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

3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a local authority or a statutory body thereof.

ARTICLE 20 – 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 his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

ARTICLE 21 – OTHER INCOME

1. 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.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement and arising in the other Contracting State may also be taxed in that other State.

ARTICLE 22 – CAPITAL

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.
2. Capital represented by 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 or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.
3. Capital represented by ships and aircraft operated in international traffic by a resident of a Contracting State and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in that State.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

ARTICLE 23 – ELIMINATION OF DOUBLE TAXATION

1. In Singapore, double taxation shall be avoided as follows:

Where a resident of Singapore derives income from Luxembourg which, in accordance with the provisions of this Agreement, may be taxed in Luxembourg, Singapore shall, subject to its laws regarding the allowance as a credit against Singapore tax of tax payable in any country other than Singapore, allow the Luxembourg tax paid, whether directly or by deduction, as a credit against the Singapore tax payable on the income of that resident. Where such income is a dividend paid by a company which is a resident of Luxembourg to a resident of Singapore which is a company owning directly or indirectly not less than 10 per cent of the share capital of the first-mentioned company, the credit shall take into account the Luxembourg tax paid by that company on the portion of its profits out of which the dividend is paid.

2. In Luxembourg, double taxation shall be avoided as follows:

Subject to the provisions of the law of Luxembourg regarding the elimination of double taxation which shall not affect the general principle hereof, double taxation shall be eliminated as follows:

- (a) Where a resident of Luxembourg derives income or owns capital which, in accordance with the provisions of this Agreement, may be taxed in Singapore, Luxembourg shall, subject to the provisions of sub-paragraphs (b), (c) and (d), exempt such income or capital from tax, but may, in order to calculate the amount of tax on the remaining income or capital of the resident, apply the same rates of tax as if the income or capital had not been exempted.
- (b) Where a resident of Luxembourg derives income which, in accordance with the provisions of Article 12, Article 17 and paragraph 3 of Article 21 may be taxed in Singapore, Luxembourg shall allow as a deduction from the income tax on individuals or from the corporation tax of that resident an amount equal to the tax paid in Singapore. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from Singapore.
- (c) The provisions of sub-paragraph (a) shall not apply to income derived or capital owned by a resident of Luxembourg where Singapore applies the provisions of this Agreement to exempt such income or capital from tax or applies the provisions of paragraph 2 of Article 12 to such income.
- (d) Where a company which is a resident of Luxembourg derives dividends from Singapore sources, Luxembourg shall exempt such dividends from tax, provided that the company which is a resident of Luxembourg holds directly at least 10 per cent of the capital of the company paying the dividends since the beginning of the accounting year and if this company is subject in Singapore to an income tax corresponding to the Luxembourg corporation tax. The abovementioned shares in the Singapore company are, under the same conditions, exempt from the Luxembourg capital tax. The exemption under this sub-paragraph shall also apply notwithstanding that the Singapore company is exempted from tax or taxed at a reduced rate in Singapore in accordance with Singapore laws providing incentives for the promotion of economic development in Singapore.

ARTICLE 24 – NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.
3. Nothing in this Article shall be construed as obliging a Contracting State to grant to:
 - (a) residents of the other Contracting State any personal allowances, reliefs and reductions for tax purposes which it grants to its own residents; or
 - (b) nationals of the other Contracting State those personal allowances, reliefs and reductions for tax purposes which it grants to its own nationals who are not residents of that State or to such other persons as may be specified in the taxation laws of that State.
4. Except where the provisions of paragraph 1 of Article 9, paragraph 4 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.
5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.
6. Where a Contracting State grants tax incentives to its nationals designed to promote economic or social development in accordance with its national policy and criteria, it shall not be construed as discrimination under this Article.
7. The provisions of this Article shall apply to the taxes which are the subject of this Agreement.

ARTICLE 25 – MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of 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. They may also consult together for the elimination of double taxation in cases not provided for in 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 26 – 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 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 27 – MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

ARTICLE 28 – ENTRY INTO FORCE

1. The Contracting States shall notify each other in writing, through diplomatic channels, that the procedures required by its law for the entry into force of this Agreement have been satisfied.

2. The Agreement shall enter into force on the date of the later of these notifications and its provisions shall have effect:

(a) in Singapore:

- (i) in respect of taxes withheld at source on amounts liable to be paid, deemed paid or paid (whichever is the earliest) on or after 1 January of the calendar year next following the year in which the Agreement enters into force;
- (ii) in respect of tax chargeable (other than taxes withheld at source) 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; and
- (iii) in respect of Article 26, for requests made on or after the date of entry into force concerning information for taxes relating to taxable periods beginning on or after 1 January of the calendar year next following the date on which the Agreement enters into force; or where there is no taxable period, for all charges to tax arising on or after 1 January of the calendar year next following the date on which the Agreement enters into force;

(b) in Luxembourg:

- (i) in respect of taxes withheld at source, to income derived on or after 1 January of the calendar year next following the year in which the Agreement enters into force;
- (ii) in respect of other taxes on income, and taxes on capital, to taxes chargeable for any taxable year beginning on or after 1 January of the calendar year next following the year in which the Agreement enters into force;
- (iii) in respect of Article 26, for requests made on or after the date of entry into force concerning information for taxes relating to taxable periods beginning on or after 1 January of the calendar year next following the date on which the Agreement enters into force; or where there is no taxable period, for all charges to tax arising on or after 1 January of the calendar year next following the date on which the Agreement enters into force.

3. The Agreement between the Republic of Singapore and the Grand Duchy of Luxembourg for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital, with Protocol, signed on 6th March 1993 shall be terminated and cease to be effective from the date upon which this Agreement has effect in respect of the taxes to which this Agreement applies in accordance with the provisions of paragraph 2 of this Article.

4. Notwithstanding paragraph 3, the provisions of Article 23 (1)(c) of the Agreement between the Republic of Singapore and the Grand Duchy of Luxembourg for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital, with Protocol, signed on 6th March 1993 shall remain applicable for a 5-year period from the date this Agreement has effect.

ARTICLE 29 – 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 at least six months before the end of any calendar year beginning after the expiration of a period of five years from the date of its entry into force. In such event, the Agreement shall cease to have effect:

- (a) in Singapore:
 - (i) in respect of taxes withheld at source on amounts liable to be paid, deemed paid or paid (whichever is the earliest) after the end of that calendar year in which the notice is given;
 - (ii) in respect of tax chargeable (other than taxes withheld at source) 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; and
 - (iii) in all other cases, after the end of that calendar year in which the notice is given;
- (b) in Luxembourg:
 - (i) in respect of taxes withheld at source, to income derived on or after 1 January of the calendar year next following the year in which the notice is given;
 - (ii) in respect of other taxes on income, and taxes on capital, to taxes chargeable for any taxable year beginning on or after 1 January of the calendar year next following the year in which the notice is given; and
 - (iii) in all other cases, after the end of that calendar year in which the notice is given.

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

Done in duplicate at Washington DC on this 9th day of October 2013 in the English language.

**FOR THE GOVERNMENT OF THE
REPUBLIC OF SINGAPORE**

**FOR THE GOVERNMENT OF THE
GRAND DUCHY OF LUXEMBOURG**

.....

.....

PROTOCOL

At the moment of the signing of the Agreement between the Government of the Republic of Singapore and the Government of the Grand Duchy of Luxembourg for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital, the undersigned have agreed upon the following provisions, which shall form an integral part of the Agreement:

I. With reference to Article 4:

It is understood that a collective investment vehicle is a resident of a Contracting State if under the domestic laws of that State it is liable to tax therein by reason of its domicile, residence, place of management or any other criterion of a similar nature. A collective investment vehicle is also considered liable to tax if it is subject to the tax laws of that Contracting State but is exempt from tax only if it meets all the requirements for exemption specified in the tax laws of that Contracting State.

II. With reference to Articles 10, 11 and 12:

A trustee liable 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.

III. With reference to Article 26:

The competent authority of the requesting State shall provide the following information to the competent authority of the requested State when making a request for information under the Agreement to demonstrate the foreseeable relevance of the information to the request:

- (a) the identity of the person under examination or investigation;
- (b) a statement of the information sought including its nature and the form in which the requesting State wishes to receive the information from the requested State;
- (c) the taxable period with respect to which the information is requested;
- (d) the tax purpose for which the information is sought;
- (e) grounds for believing that the information requested is held in the requested State or is in the possession or control of a person within the jurisdiction of the requested State;
- (f) to the extent known, the name and address of any person believed to be in possession of the requested information;
- (g) a statement that the requesting State has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

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

Done in duplicate at Washington DC on this 9th day of October 2013 in the English language.

**FOR THE GOVERNMENT OF THE
REPUBLIC OF SINGAPORE**

.....

**FOR THE GOVERNMENT OF THE
GRAND DUCHY OF LUXEMBOURG**

.....

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 the Grand Duchy of Luxembourg,

Desiring to further develop their economic relationship and to enhance their co-operation in tax matters,

Intending 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. New Articles 25A to 25G (arbitration provisions)

The following articles shall be inserted immediately after Article 25 (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 8 April 2020; or
- (b) Luxembourg, by 20 December 2019.

“ARTICLE 25A – MANDATORY BINDING ARBITRATION

1. Where:

- (a) under Article 25 (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 25 (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 25B to 25G, 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 25C (Confidentiality of Arbitration Proceedings) and 25F (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 25 (Mutual Agreement Procedure)) settle the mode of application of the provisions contained in this Article and Articles 25B to 25G, 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 25B to 25G shall not apply to any case involving the application of Singapore's general anti-avoidance rules contained in section 33 of the Act, case law or judicial 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.

13. This Article and Articles 25B to 25G —

- (a) shall have effect with respect to cases presented to the competent authority of a Contracting State under Article 25 (Mutual Agreement Procedure) on or after 1 August 2019; and
- (b) shall apply to a case presented to the competent authority of a Contracting State under Article 25 prior to 1 August 2019 only to the

extent that the competent authorities of both Contracting States agree that it will apply to that specific case.

ARTICLE 25B – 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 25A to 25G.

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 25A (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 25C – CONFIDENTIALITY OF ARBITRATION PROCEEDINGS

1. Solely for the purposes of the application of Articles 25A to 25G and 26 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 26 (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 26 (Exchange of Information) and under the applicable laws of the Contracting States.

ARTICLE 25D – RESOLUTION OF A CASE PRIOR TO THE CONCLUSION OF THE ARBITRATION

For the purposes of Articles 25 and 25A to 25G, 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 25E – 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 25A to 25G:

- (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 25, as well as the arbitration proceeding under Articles 25A to 25G, 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 25F – COSTS OF ARBITRATION PROCEEDINGS

In an arbitration proceeding under Articles 25A to 25G, 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 25G – 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 25A to 25F 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 25A to 25F 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.”.

4. New Article 27A

The following new Article 27A is inserted immediately after Article 27 (Members of Diplomatic Missions and Consular Posts):

“ARTICLE 27A – 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 that other Contracting State before rejecting the request.”.

5. 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 3 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 August 2019;
- (b) 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 February 2020.

ANNEX B

The Government of the Republic of Singapore and the Government of the Grand Duchy of Luxembourg,

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,

Have agreed as follows:

Article 1 – PERSONAL SCOPE

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

Article 2 – TAXES COVERED

1. This Agreement shall apply to taxes on income and on capital imposed on behalf of each Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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

(a) in the Grand Duchy of Luxembourg:

(i) the income tax on individuals (l'impôt sur le revenu des personnes physiques);

(ii) the corporation tax (l'impôt sur le revenu des collectivités);

(iii) the tax on fees of directors of companies (l'impôt spécial sur les tantièmes);

(iv) the capital tax (l'impôt sur la fortune); and

(v) the communal trade tax (l'impôt commercial communal);

(hereinafter referred to as "Luxembourg tax");

(b) in the Republic of Singapore:

the income tax

(hereinafter referred to as "Singapore tax").

4. The Agreement shall apply also to any identical or substantially similar taxes which 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 of substantial changes which have been made in their respective taxation laws.

Article 3 – GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:
 - (a)
 - (i) the term "Singapore" means the Republic of Singapore;
 - (ii) the term "Luxembourg" means the Grand Duchy of Luxembourg;
 - (b) the terms "a Contracting State" and "the other Contracting State" mean Singapore or Luxembourg as the context requires;
 - (c) the term "person" includes an individual, a company and any other body of persons which is treated as an entity for tax purposes;
 - (d) the term "company" means any body corporate or any other entity which is treated as a body corporate for tax purposes;
 - (e) 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;
 - (f) the term "competent authority" means:
 - (i) in Singapore, the Minister for Finance or his authorized representative;
 - (ii) in Luxembourg, the Minister of Finance or his authorized representative;
 - (g) the term "tax" means Singapore tax or Luxembourg tax as the context requires;
 - (h) the term "national" means:
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) any legal person, partnership and association deriving its status as such from the laws in force in a Contracting State;
 - (i) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State or solely between such places and one or more structures used for the exploration or exploitation of natural resources situated in waters adjacent to the territorial waters of that other Contracting State.
2. As regards the application of the Agreement by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws of that State concerning the taxes to which the Agreement applies.

Article 4 – FISCAL DOMICILE

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who is resident in a Contracting State for tax purposes of that Contracting State.

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

- (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (hereinafter referred to as his "centre of vital interests");
- (b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) if he has an habitual abode in both Contracting States or in neither of them, the competent authorities of the two 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, it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated. If its place of effective management cannot be determined, the competent authorities of the Contracting States shall settle the question by mutual agreement.

Article 5 – PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially but is not limited to:
 - (a) a place of management;
 - (b) a branch;
 - (c) an office;
 - (d) a store or other sales outlet;
 - (e) a factory;
 - (f) a workshop;
 - (g) a warehouse, except where used for purposes mentioned in paragraph 5; and
 - (h) a mine, an oil or gas well, a quarry or any other place of natural resources.
3. The term "permanent establishment" also includes:
 - (a) a building site, or a construction, installation or assembly project, but only where such site or project or any combination of them continues for a period or periods aggregating more than six months within any 12-month period;
 - (b) the furnishing of services, including consultancy services, by a resident of a Contracting State through employees or other personnel.
4. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on supervisory activities in that other Contracting State for a period or periods aggregating more than six months within any 12-month period in connection with a construction, installation or assembly project or any combination of them which are being undertaken in that other Contracting State.
5. The term "permanent establishment" shall be deemed not to include:
 - (a) the use of facilities solely for the purpose of storage or display 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 or display;
 - (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character for the enterprise.

6. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State, other than an agent of an independent status to whom paragraph 7 applies, shall be deemed to be a permanent establishment in the first-mentioned Contracting State if -

- (a) he has, and habitually exercises in the first-mentioned Contracting State, an authority to conclude contracts for or on behalf of the enterprise unless the exercise of such authority is limited to the purchase of goods or merchandise for that enterprise; or
- (b) he habitually maintains in the first-mentioned Contracting State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise; or
- (c) he habitually secures orders in the first-mentioned Contracting State wholly or almost wholly for the enterprise itself or for any other enterprise which is controlled by it or has a controlling interest in it.

7. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because that enterprise carries on business in that other Contracting State through a broker, general commission agent, or any other agent of an independent status, where such broker or agent is acting in the ordinary course of his business.

8. Except with respect to reinsurance, an enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it collects premiums in that other State, or insures risks situated therein, through an employee or representative situated therein who is not an agent of independent status to whom paragraph 7 applies.

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 or forestry) 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 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 and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; 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 and to income from immovable property used for the performance of professional services.

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 all expenses, including executive and general administrative expenses, which would be deductible if the permanent establishment were an independent enterprise, insofar as they are reasonably allocable to the permanent establishment, whether incurred in the Contracting State in which the permanent establishment is situated or elsewhere.
4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8 – SHIPPING AND AIR TRANSPORT

1. Profits of an enterprise of one of the Contracting States from the operation of ships or aircraft in international traffic may be taxed in the other Contracting State, but only if such profits are derived from that other Contracting State. However, the tax charged in respect of such profits in that other State shall be reduced by an amount equal to 50 per cent thereof.

2. The provisions of paragraph 1 shall also apply to profits of shipping or air transport enterprises from the participation in a pool, a joint business or an international operating agency.

Article 9 – ASSOCIATED ENTERPRISES

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 and 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.

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

- (a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends;
- (b) 10 per cent of the gross amount of the dividends in all other cases.

2. Notwithstanding the provisions of paragraph 1, dividends paid by a company which is a resident of Luxembourg to the Government of Singapore shall be exempt from Luxembourg tax.

3. For the purposes of paragraph 2, the term "Government of Singapore" shall include:

- (a) the Monetary Authority of Singapore and the Board of Commissioners of Currency, Singapore;
- (b) the Government of Singapore Investment Corporation Pte Ltd;
- (c) Intraco Limited, Development Bank of Singapore Ltd, Export Credit Insurance Corporation of Singapore Ltd, Temasek Holdings Pte Ltd and Singapore Technology Pte Ltd;
- (d) a statutory body; and
- (e) any institution wholly or mainly owned by the Government of Singapore, a local authority or a statutory body thereof, as may be agreed between the competent authorities periodically.

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

5. The provisions of paragraph 1 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 by virtue of which the dividends are paid is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 shall apply.

6. 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.

7. For the purposes of this Agreement dividends paid by a Malaysian company out of profits derived from sources in Singapore and deemed to be dividends from sources in Singapore in accordance with the Agreement for the Avoidance of Double Taxation with respect to taxes on income between the Government of the Republic of Singapore and the Government of Malaysia signed on the 26th day of December, 1968, shall be treated as dividends paid by a company which is a resident of Singapore.

8. (a) Under the current Singapore laws, where dividends are paid by a company which is a resident of Singapore to a resident of Luxembourg who is the beneficial owner of such dividends, there is no tax in Singapore which is chargeable on dividends in addition to the tax chargeable in respect of the profits or income of the company.
- (b) If, subsequent to the signing of the Agreement, Singapore imposes a tax on dividends in addition to the tax chargeable in respect of the profits or income of a company which is a resident of Singapore, such tax may be charged but the tax so charged on the dividends derived by a resident of Luxembourg who is the beneficial owner of such dividends shall be in accordance with the provisions of paragraph 1.
9. (a) The provisions of this Article shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.
- (b) The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this Article.

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 law of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to the Government of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State.

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

- (a) in the case of Singapore shall have the same meaning as in paragraph 3 of Article 10;
- (b) in the case of Luxembourg means the Government of Luxembourg and shall include:
 - (i) a political subdivision or local authority thereof;
 - (ii) the Société Nationale de Crédit et d'Investissement; and
 - (iii) any institution wholly or mainly owned by the Government of Luxembourg or a local authority or a statutory body thereof, as may be agreed between the competent authorities periodically.

5. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as income assimilated to income from money lent by the taxation law of the Contracting State in which the income arises, including interest on deferred payment sales. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

6. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 shall apply.

7. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority, a statutory body or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and that interest is borne by that permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

8. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of interest paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law 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 law of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 10 per cent of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films or tapes for television or broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority, a statutory body or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.
6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they were paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 13 – CAPITAL GAINS

1. Gains derived from the alienation of immovable property referred to in Article 6 and situated in a Contracting State may be taxed in that 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 place of effective management of the enterprise is situated.
4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident.
5. Notwithstanding any other provisions of the Agreement, gains derived by the Government of Singapore from the alienation of securities in Luxembourg shall be exempt from Luxembourg tax.
6. For the purposes of paragraph 5:
 - (a) the term "Government of Singapore" shall have the same meaning as in paragraph 3 of Article 10;
 - (b) the term "securities" means shares or other rights referred to in paragraph 4 of Article 10 and Government securities, bonds or debentures referred to in paragraph 5 of Article 11.

Article 14 – PERSONAL SERVICES

1. Subject to the provisions of Articles 15, 17, 18 and 19, salaries, wages and other similar remuneration in respect of an employment as well as income in respect of professional services or other independent activities of a similar character, derived by a resident of a Contracting State, shall be taxable only in that State unless the employment, services or activities are exercised or performed in the other Contracting State. If the employment, services or activities are so exercised or performed, such remuneration or income as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration or income derived by a resident of a Contracting State in respect of an employment, services or activities exercised or performed 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 the calendar year concerned, and
- (b) the remuneration or income is paid by, or on behalf of, a person who is a resident of the first-mentioned State, and
- (c) the remuneration or income is not borne by a permanent establishment which that person has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft in international traffic shall be taxable only in that State.

Article 15 – DIRECTORS' FEES

1. Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or any other similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.
2. The remuneration derived by a person, to whom paragraph 1 applies, from the company in respect of the discharge of day-to-day functions of a managerial or technical nature may be taxed in accordance with the provisions of Article 14.

Article 16 – ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Article 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 an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other Contracting State.

Such income shall, however, be exempt from tax in that other Contracting State if such activities are supported, wholly or substantially, from the public funds of the Government of either Contracting State or a local authority or a statutory body thereof.

2. Where income in respect of activities exercised in a Contracting State by an entertainer or an athlete accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the first-mentioned Contracting State.

Such income shall, however, be exempt from tax in the first-mentioned Contracting State if such activities are supported, wholly or substantially, from the public funds of the Government of either Contracting State or a local authority or a statutory body thereof.

Article 17 – PENSIONS

Subject to the provisions of paragraph 2 of Article 18, pensions and other payments made under the social security legislation of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

Article 18 – GOVERNMENT SERVICE

1. (a) Remuneration, other than a pension, paid by a Contracting State or a statutory body or a local authority thereof to an individual in respect of services rendered to that State or body or authority shall be taxable only in that State.

(b) However, such 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. Any pension paid by, or out of funds created by, a Contracting State or a statutory body or a local authority thereof to an individual in respect of services rendered to that State or body or authority shall be taxable only in that State.
3. The provisions of Articles 14, 15 and 17 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a statutory body or a local authority thereof.

Article 19 – STUDENTS AND APPRENTICES

An individual 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 as a student at a recognized university, college, school or other similar recognized educational institution in the first-mentioned State or as a business or technical apprentice therein, for a period not exceeding five consecutive years from the date of his first arrival in the first-mentioned State in connection with that visit, shall be exempt from tax in that first-mentioned State on:

- (a) all remittances from abroad for the purposes of his maintenance, education or training; and
- (b) any remuneration for personal services rendered in the first-mentioned State, provided that the remuneration constitutes earnings necessary for his maintenance, the amount of which may be agreed between the competent authorities periodically.

Article 20 – INCOME NOT EXPRESSLY MENTIONED

Items of income not expressly mentioned in the foregoing Articles of this Agreement and arising in a Contracting State may be taxed in that State.

Article 21 – CAPITAL

1. Capital represented by immovable property referred to in Article 6 and situated in a Contracting State, may be taxed in that State.
2. Capital represented by 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, may be taxed in that other State.
3. Capital represented by ships and aircraft operated in international traffic and by movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 22 – LIMITATION OF RELIEF

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

2. However, this limitation does not apply to income derived by the Government of Singapore or any person approved by the competent authority of Singapore for the purpose of this paragraph. The term "the Government of Singapore" shall include its agencies and statutory bodies.

Article 23 – ELIMINATION OF DOUBLE TAXATION

1. In Luxembourg double taxation shall be eliminated as follows:
 - (a) Where a resident of Luxembourg derives income or owns capital which, in accordance with the provisions of this Agreement, may be taxed in Singapore, Luxembourg shall, subject to the provisions of sub-paragraphs (b), (c), (d) and (e), exempt such income or capital from tax.
 - (b) Where a resident of Luxembourg derives items of income which, in accordance with the provisions of Articles 8, 10, 11, 12 and 20 may be taxed in Singapore, Luxembourg shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Singapore. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from Singapore.
 - (c) For the purposes of sub-paragraph (b) of paragraph 1 the term "tax paid in Singapore" shall be deemed to include the amount of Singapore tax which would have been payable but for the exemption or reduction of tax provided under Singapore laws relating to incentives for the promotion of economic development in Singapore. When applying to the following, the amount of tax deemed to have been paid shall be:
 - (i) 10 per cent of the gross amount of dividends in the case of paragraph 1(b) of Article 10;
 - (ii) 10 per cent of the gross amount of interest in the case of paragraph 2 of Article 11, and
 - (iii) 10 per cent of the gross amount of royalties in the case of paragraph 2 of Article 12.
 - (d) Where in accordance with any provision of the Agreement income derived or capital owned by a resident of Luxembourg is exempt from tax in Luxembourg, Luxembourg may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.
 - (e) Where a company which is a resident of Luxembourg derives dividends from Singapore sources, Luxembourg shall exempt such dividends from tax, provided that the company which is a resident of Luxembourg holds directly at least 10 per cent of the capital of the company paying the dividends since the beginning of the accounting year and if this company is subject in Singapore to an income tax corresponding to the Luxembourg corporation tax. The abovementioned shares in the Singapore company are, under the same conditions, exempt from the Luxembourg capital tax. The exemption under this subparagraph shall also apply notwithstanding that the Singapore company is exempted from tax or taxed at a reduced rate in Singapore in accordance with Singapore laws providing incentives for the promotion of economic development in Singapore.
2. In Singapore, double taxation shall be eliminated as follows:

- (a) Subject to the provisions of the laws of Singapore regarding the allowance as a credit against Singapore tax of tax payable in any country other than Singapore, Luxembourg tax payable, whether directly or by deduction, in respect of income from sources within Luxembourg shall be allowed as a credit against Singapore tax payable in respect of that income. The credit shall not, however, exceed that part of the Singapore tax, as computed before the credit is given, which is attributable to such item of income.
- (b) Where such income is a dividend paid by a company which is a resident of Luxembourg to a company which is a resident of Singapore and which owns directly at least 10 per cent of the capital in the first-mentioned company, Singapore shall take into account (in addition to any Luxembourg tax on the dividend) the Luxembourg tax paid by the first-mentioned company in respect of that portion of the profits out of which the dividend is paid.

Article 24 – NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances and under the same conditions are or may be subjected.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other Contracting State than the taxation levied on enterprises of that other State carrying on the same activities.

3. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected in the same circumstances and under the same conditions.

4. Nothing in this Article shall be construed as:

- (a) obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions which it grants to its own residents;
- (b) obliging a Contracting State to grant to nationals of the other Contracting State those personal allowances, reliefs and reductions for tax purposes which it grants to its own citizens who are not resident in that Contracting State or to such other persons as may be specified in the taxation laws of that Contracting State.

5. Where a Contracting State grants tax incentives to its nationals designed to promote economic development in accordance with its national policy and criteria, it shall not be construed as discrimination under this Article.

6. In this Article, the term "taxation" means taxes which are the subject of this Agreement.

Article 25 – MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of 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.

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. They may also consult together for the elimination of double taxation in cases not provided for in 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. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

Article 26 – EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement insofar as the taxation thereunder is not contrary to the Agreement. Any information received 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) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Agreement. Such persons or authorities shall use the information only for such purposes.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

- (a) to carry out administrative measures at variance with the laws or 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).

Article 27 – DIPLOMATIC AGENTS AND CONSULAR OFFICERS

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

Article 28 – EXCLUSION OF CERTAIN COMPANIES

This Agreement shall not apply to holding companies (sociétés holding) within the meaning of special Luxembourg laws, currently the Act (loi) of 31 July 1929 and the Decree (arrêté grand-ducal) of 17 December 1938 and to companies subject to a similar or substantially similar fiscal law in Luxembourg, including laws which may be introduced after the signature of this Agreement. It shall also not apply to income derived from such companies by a resident of Singapore nor to shares or other rights in such companies owned by such a person.

Article 29 – ENTRY INTO FORCE

1. This Agreement shall be ratified and the instruments of ratification shall be exchanged at Luxembourg as soon as possible.

2. The Agreement shall enter into force thirty days after the exchange of instruments of ratification and its provisions shall have effect:

(a) in Luxembourg:

(i) in respect of taxes withheld at source, to income derived on or after 1 January in the calendar year in which the Agreement enters into force;

(ii) in respect of other taxes on income, and taxes on capital, to taxes chargeable for any taxable year beginning on or after 1 January in the calendar year in which the Agreement enters into force;

(b) in Singapore:

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

Article 30 – 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 written notice of termination on or before the Thirtieth day of June of any calendar year following after the period of five years from the date on which the Agreement enters into force. In such event, the Agreement shall cease to have effect:

- (a) in Luxembourg:
 - (i) in respect of taxes withheld at source, to income derived on or after 1 January in the calendar year immediately following the year in which the notice is given;
 - (ii) in respect of other taxes on income, and taxes on capital, to taxes chargeable for any taxable year beginning on or after 1 January in the calendar year immediately following the year in which the notice is given;
- (b) in Singapore:

in respect of Singapore tax for the 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 authorized thereto, have signed this Agreement.

Done in duplicate at Singapore on this sixth day of March 1993, in the French and English languages, both texts being equally authoritative.

**FOR THE GOVERNMENT OF THE
REPUBLIC OF SINGAPORE**

**FOR THE GOVERNMENT OF THE
GRAND DUCHY OF LUXEMBOURG**

COMMODORE TEO CHEE HEAN

GEORGES WOHLFART

PROTOCOL (1993)

At the moment of signing the Agreement between the Government of the Republic of Singapore and the Government of the Grand Duchy of Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, the undersigned have agreed that with respect to Article 1, branches of an enterprise of either Contracting State located in third countries are excluded from the scope of the Agreement.

IN WITNESS WHEREOF the undersigned, duly authorized thereto, have signed this protocol.

Done in duplicate at Singapore on this sixth day of March 1993, in the French and English languages, both texts being equally authoritative.

**FOR THE GOVERNMENT OF THE
REPUBLIC OF SINGAPORE**

**FOR THE GOVERNMENT OF THE
GRAND DUCHY OF LUXEMBOURG**

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