

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

Date of Conclusion: 30 November 2001.

Entry into Force: 22 October 2002.

Effective Date: 1 January 2003.

The Government of the Republic of Singapore and the Government of the Republic of Austria, desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income

Have agreed as follows:

ARTICLE 1 - PERSONS COVERED

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

ARTICLE 2 - TAXES COVERED

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

(2) There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

(3) The existing taxes to which the Agreement shall apply are in particular:

a) in Austria:

(i) the income tax (die Einkommensteuer);

(ii) the corporation tax (die Körperschaftsteuer);

b) in Singapore:

the income 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 any 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) the term "Austria" means the Republic of Austria;
 - b) the term "Singapore" means the territories of the Republic of Singapore, the territorial waters of Singapore and the sea-bed and subsoil of the territorial waters, and when used in a geographical sense includes any area extending beyond the limits of the territorial waters of Singapore, and the sea-bed and subsoil of any such area, which has been or may hereafter be designated under the laws of Singapore and in accordance with international law as an area over which Singapore has sovereign rights for the purposes of exploring and exploiting the natural resources, whether living or non-living;
 - 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 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 "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 Austria: the Federal Minister of Finance or his authorised representative;
 - (ii) in Singapore: the Minister for Finance or his authorised representative;
 - h) the term "national" means:
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a 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 political subdivision, local authority or statutory body thereof.

(2) Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then 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) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

(3) Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

ARTICLE 5 - PERMANENT ESTABLISHMENT

(1) For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

(2) The term "permanent establishment" includes especially:

- a) a place of management;
- b) a branch;
- c) an office;
- d) a factory;
- e) a workshop, and
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

- (3) The term "permanent establishment" also includes:
- a) a building site, a construction, installation or assembly project, but only where such site or project continue for a period of more than 12 months;
 - b) the furnishing of services, including supervisory activities and consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose for a period or periods exceeding in the aggregate 183 days within any twelve-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 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) No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

(5) 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, INLAND WATERWAYS TRANSPORT AND AIR TRANSPORT

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

(2) Profits of an enterprise of a Contracting State from the operation of boats engaged in inland waterways transport shall be taxable only in that State.

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

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

(4) The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

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 accordance with the provisions of paragraph 1, 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 where the competent authorities of the Contracting States agree, upon consultation, that all or part of 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.

ARTICLE 10 - DIVIDENDS

(1) Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

(2)

- a) However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.
- b) 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, such dividends shall be taxable only in the Contracting State of which the beneficial owner of the dividends is a resident.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

(3) Notwithstanding the provisions of paragraph 2, dividends paid by a company which is a resident of a Contracting State to the Government of the other Contracting State shall be exempt from tax in the first-mentioned State.

(4) For the purposes of paragraph 3, the term "Government"

- a) in the case of Austria, means the Government of Austria and shall include:
 - (i) the Central Bank;
 - (ii) a statutory body;
 - (iii) any institution wholly or mainly owned by the Government of Austria as may be agreed from time to time between the competent authorities of the Contracting States.
- b) in the case of Singapore, means the Government of Singapore and shall include:
 - (i) the Monetary Authority of Singapore and the Board of Commissioners of Currency;
 - (ii) the Government of Singapore Investment Corporation Pte Ltd;
 - (iii) a statutory body;
 - (iv) any institution wholly or mainly owned by the Government of Singapore as may be agreed from time to time between the competent authorities of the Contracting States.

(5) The term "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.

(6) The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other 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.

(7) 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.

(8) Under the current Singapore laws, where dividends are paid by a company which is a resident of Singapore to a resident of Austria 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. Under the full imputation system adopted, the tax deductible from dividends is a tax on the profits or income of the company and not a tax on dividends within the meaning 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 laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the interest.

(3) Notwithstanding the provisions of paragraph 2,

- a) interest arising in a Contracting State and paid to the Government of the other Contracting State shall be exempt from tax in the first-mentioned State;
- b) interest paid in respect of a loan or credit made, guaranteed or insured by the Oesterreichische Kontrollbank AG or a similar Singapore public entity the objective of which is to promote export shall be exempt from tax in the Contracting State in which the interest arises;
- c) interest derived and beneficially owned by a bank of a Contracting State shall be exempt from tax in the other Contracting State if the payer is a bank of the other State.

(4) For the purposes of sub-paragraph a) of paragraph 3, the term "Government"

- a) in the case of Austria, means the Government of Austria and shall include:
 - (i) the Central Bank;

- (ii) a statutory body;
 - (iii) any institution wholly or mainly owned by the Government of Austria as may be agreed from time to time between the competent authorities of the Contracting States.
- b) in the case of Singapore, means the Government of Singapore and shall include:
 - (i) the Monetary Authority of Singapore and the Board of Commissioners of Currency;
 - (ii) the Government of Singapore Investment Corporation Pte Ltd;
 - (iii) a statutory body;
 - (iv) any institution wholly or mainly owned by the Government of Singapore as may be agreed from time to time between the competent authorities of the Contracting States.

(5) The term "interest" as used in this Article means income from debt claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

(6) The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other 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.

(7) Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether 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 indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

(8) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 12 - ROYALTIES

(1) Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

(2) However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.

(3) The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, and films or tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

(4) The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other 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 derived by a resident of a Contracting State from the alienation of shares, other than shares quoted on a recognised Stock Exchange, deriving at least three-quarters of their value directly or indirectly from immovable property situated in the other Contracting State, may be taxed in that other State.

(3) 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.

(4) Gains derived by an enterprise of a Contracting State from the operation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property, including containers, pertaining to the operation of such ships, aircraft or boats, shall be taxable only in that State.

(5) Gains from the alienation of any property other than that referred to in the preceding paragraphs 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. However, such income may also be taxed in the other Contracting State if:

- a) the individual is present in the other State for a period or periods exceeding in the aggregate 183 days in any period of twelve months commencing or ending in the calendar year concerned; or
- b) the individual has a fixed base regularly available to him in that other State for the purpose of performing his activities;

but only so much thereof as is attributable to services performed 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 period of twelve months 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 or aboard a boat engaged in inland waterways transport, 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 SPORTSMEN

(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 sportsman, from his personal activities as such 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 sportsman accrues not to the entertainer or sportsman 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 sportsman are exercised.

ARTICLE 18 - PENSIONS

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.

ARTICLE 19 - GOVERNMENT SERVICE

- (1)
 - a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision, a local authority or a statutory body thereof to an individual in respect of services rendered to that State or subdivision, 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) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision, a local authority or a statutory body thereof to an individual in respect of services rendered to that State or subdivision, authority or body shall be taxable only in that State.
- b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

(3) The provisions of Articles 15, 16, 17, and 18 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision, 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 of this Article, 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 be taxed in that other Contracting State.

ARTICLE 22 - ELIMINATION OF DOUBLE TAXATION

(1) In Austria double taxation shall be avoided as follows:

- a) Where a resident of Austria derives income which, in accordance with the provisions of this Agreement, may be taxed in Singapore, Austria shall, subject to the provisions of subparagraphs b) to d), exempt such income from tax;
- b) Where a resident of Austria derives items of income which, in accordance with the provisions of Articles 10, 11, 12, paragraph 2 of Article 13, and 21

may be taxed in Singapore, Austria 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) Dividends in the sense of sub-paragraph b) of paragraph 2 of Article 10 paid by a company which is a resident of Singapore to a company which is a resident of Austria shall be exempt from tax in Austria, subject to the relevant provisions of the domestic law of Austria, however, notwithstanding any deviating minimum participation requirements provided for by that law.
- d) Where in accordance with any provision of the Agreement income derived by a resident of Austria is exempt from tax in Austria, Austria may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

(2) In Singapore double taxation shall be avoided as follows:

Where a resident of Singapore derives income from Austria which, in accordance with the provisions of this Agreement, may be taxed in Austria, 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 Austrian tax paid, whether directly or by deduction, as a credit against the Singapore tax payable on the income of the resident. Where such income is a dividend paid by a company which is a resident of Austria 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 Austrian tax paid by that company on the portion of its profits out of which the dividend is paid.

ARTICLE 23 - 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. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

(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 resident in that Contracting State or to such other persons as may be specified in the taxation laws of that Contracting State.

(4) 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.

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

ARTICLE 24 - 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 23, 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 25 - EXCHANGE OF INFORMATION

(1) The competent authorities of the Contracting States shall exchange such information as is relevant 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) concerned with 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. They may disclose the information in public court proceedings or in judicial decisions.

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

ARTICLE 26 - 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 27 - ENTRY INTO FORCE

(1) Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Agreement.

(2) The Agreement shall enter into force on the date of receipt of the later of these notifications and shall thereupon have effect in respect of taxes on income relating to the calendar year (including accounting periods beginning in any such year) next following that in which the Agreement enters into force and subsequent years.

ARTICLE 28 - TERMINATION

This Agreement shall remain in force indefinitely, but either of the Contracting States may, on or before 30th June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through the diplomatic channels, written notice of termination. In such event, the Agreement shall cease to have effect in respect of taxes on income relating to the calendar year (including accounting periods beginning in any such year) next following that in which the notice is given and subsequent years.

IN WITNESS WHEREOF the Plenipotentiaries of the two Contracting States, duly authorised thereto, have signed this Agreement.

DONE in duplicate in Austria on the 30th day of November 2001, in the English and German languages, each text being equally authentic.

For the Government of
the Republic of Singapore

AMBASSADOR CHEN
CHOONG JOONG

For the Government of
the Republic of Austria

AMBASSADOR DR JOHANN DEMEL
Head of the Department for bilateral and
multilateral Economic Relations
Federal Ministry for Foreign Affairs

PROTOCOL (2001)

At the moment of signing the Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, this day concluded between the Government of the Republic of Austria and the Government of the Republic of Singapore, the undersigned have agreed that the following provisions shall form an integral part of the Agreement.

With reference to Article 13

1. For the purposes of paragraph 2 of Article 13 –
 - a) the shares of a company are considered as deriving at least three-quarters of their value directly or indirectly from immovable property situated in a Contracting State if the company has immovable property situated in that State or shares in one or more relevant investment companies, the aggregate value of which comprises at least three-quarters of the market value of its total assets as at the end of the accounting period of the company immediately before the alienation of the shares in the company by the person referred to in paragraph 2 of Article 13; and
 - b) for the purposes of sub-paragraph a) above, a relevant investment company means a company whose shares are not quoted on a recognised Stock Exchange and which has immovable property situated in the Contracting State referred to in sub-paragraph a) above, the value of which comprises at least three-quarters of the market value of its total assets as at the end of the accounting period of the company immediately before the disposal of the shares in the company referred to in sub-paragraph a) above by the person referred to in paragraph 2 of Article 13.

With reference to Article 22

2. Where a resident of Austria derives income from an enterprise of Singapore as a “typical silent partner“ (echter stiller Gesellschafter) under Austrian law, the tax paid thereon to Singapore shall be deducted from the Austrian tax according to the provisions of sub-paragraph b) of paragraph 1 of Article 22.
3. The phrase “subject to the relevant provisions of the domestic law of Austria“ in sub-paragraph c) of paragraph 1 of Article 22 refers to anti-abuse provisions in the Austrian tax law.

With reference to Article 23

4. Granting by Singapore of the following tax reliefs or incentives shall not be construed as discrimination under Article 23:
 - a) tax reliefs for non-resident nationals of Singapore under Section 40 of the Income Tax Act;
 - b) tax incentives granted to its nationals to promote social development in accordance with its national policy and criteria;

- c) tax incentive under Part XIII B of the Economic Expansion Incentives (Relief from Income Tax) Act for the promotion of overseas investments or projects carried out by enterprises mainly owned by nationals and permanent residents of Singapore.

IN WITNESS WHEREOF the Plenipotentiaries of the two Contracting States, duly authorised thereto, have signed this Protocol.

DONE in duplicate in Austria on the 30th day of November 2001, in the English and German languages, each text being equally authentic.

For the Government of
the Republic of Singapore

AMBASSADOR CHEN
CHOONG JOONG

For the Government of
the Republic of Austria

AMBASSADOR DR JOHANN DEMEL
Head of the Department for bilateral and
multilateral Economic Relations
Federal Ministry for Foreign Affairs