

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

Date of Conclusion: 7 September 1999.

Entry into Force: 16 March 2001.

Effective Date: 1 January 2002.*

* Year of assessment beginning on or after 1 January 2003 (Singapore).

NOTE

Singapore and Portugal both 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 Portugal ratified the MLI on 21 December 2018 and 28 February 2020 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 – Portugal) (Avoidance of Double Taxation Agreement) (Modifications to Implement Multilateral Instrument) Order 2020, which has entered into force on 1 June 2020, 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

The Protocol signed on 28 May 2012 has entered into force on 26 December 2013 and its provisions shall take effect from 26 December 2013.

The text of the Protocol signed on 28 May 2012 is shown in Annex B.

The Republic of Singapore and the Portuguese Republic, 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:

CHAPTER I SCOPE OF THE AGREEMENT

ARTICLE 1 - PERSONAL SCOPE

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

ARTICLE 2 - TAXES COVERED

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

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

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

(a) in the case of the Portuguese Republic:

(i) Personal income tax (Imposto sobre o Rendimento das Pessoas Singulares - IRS);

(ii) Corporate income tax (Imposto sobre o Rendimento das Pessoas Colectivas - IRC);

(iii) Local surtax on corporate income tax (Derrama);

(hereinafter referred to as "Portuguese tax");

(b) in the case of 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.

CHAPTER II DEFINITIONS

ARTICLE 3 - GENERAL DEFINITIONS

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

- (a) the term "Portugal" means the territory of the Portuguese Republic situated in the European Continent, the Archipelagoes of Azores and Madeira, the respective territorial sea and any other zone in which, according to Portuguese and International Law, the Portuguese Republic has:
 - (i) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the sea-bed and of the sea-bed and its subsoil, or
 - (ii) jurisdiction with respect to the establishment and use of artificial islands, installations and structures, marine scientific research and the protection and preservation of the marine environment;
- (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 terms "a Contracting State" and "the other Contracting State" mean Portugal or Singapore as the context requires;
- (d) the term "person" includes an individual, a company and any other body of persons;
- (e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (g) the term "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;
- (h) the term "competent authority" means:
 - (i) in Portugal: the Minister of Finance, the Director-General of Taxation (Director-Geral dos Impostos) or their authorised representative;
 - (ii) in Singapore: the Minister for Finance or his authorised representative;
- (i) 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 which 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 or administrative subdivision or 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, or supervisory activities in connection therewith, but only where such site, project or activities last more than 12 months;
 - (b) the furnishing of services, including consultancy services, by an enterprise of a Contracting State through employees or other personnel in the other Contracting State for a period or periods aggregating more than 120 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.

CHAPTER III TAXATION OF INCOME

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.

5. The foregoing provisions shall also apply to income from movable property, or income derived from services connected with the use or the right to use the immovable property, either of which, under the taxation law of the Contracting State in which the property is situated, is assimilated to income from immovable property.

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 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. For the purposes of this Article, profits derived from the operation of ships or aircraft in international traffic shall mean profits derived from the transportation by sea or air of passengers, mail, livestock or goods carried on by the owners or lessees or charterers of the ships or aircraft, including profits derived from:

- (a) the sale of tickets for such operation of ships or aircraft on behalf of other enterprises;
- (b) the incidental lease of ships or aircraft used in such transportation;
- (c) the use, maintenance or rental of containers (including trailers and related equipment for transport of containers) when the profits are incidental to such operation of ships or aircraft.

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

4. Whenever companies from different countries have agreed to carry on an air transportation business together in the form of a consortium, the provisions of paragraph 1 shall apply to such part of the profits of the consortium as corresponds to the participation held in that consortium by a company that is a resident of a Contracting State.

ARTICLE 9 - ASSOCIATED ENTERPRISES

1. Where

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

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

2. Where a Contracting State includes, in 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 State 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. 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.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

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" means:
- (a) in Portugal, the Government of Portugal and shall include:
 - (i) Banco de Portugal;
 - (ii) IPE-Investimentos e Participacoes Empresariais;
 - (iii) PARTEST-Participacoes de Estado, SGPS SA;
 - (iv) a statutory body or any institution wholly or mainly owned by the Government of Portugal as may be agreed from time to time between the competent authorities of the Contracting States;
 - (b) in Singapore, 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 or 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. The term also includes profits attributed under an arrangement for participation in profits (associação em participação).

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.

ARTICLE 11 - INTEREST

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

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

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 shall be exempted from tax in that State:

- (a) if the debtor of such interest is the Government of that State, a political or administrative subdivision or a local authority or a statutory body thereof; or
- (b) if interest is paid to the Government of the other Contracting State, a political or administrative subdivision or a local authority or a statutory body thereof; or
- (c) if interest is paid to an institution (including a financial institution) in connection with any financing granted by them under an agreement between the Governments of the Contracting States; or
- (d) in respect of loans or credit made by:
 - (i) in the case of Portugal, Caixa-Geral de Depósitos (CGD), Banco Nacional Ultramarino (BNU), IAPMEI-Instituto de Apoio as Pequenas e Medias Empresas e ao Investimento, Organismo Coordenador do POE and ICEP-Investment, Trade and Tourism of Portugal;
 - (ii) in the case of Singapore, the Development Bank of Singapore, Ltd.

4. 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.

5. 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.

6. 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.

7. 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 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, 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 where 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 fixed base in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by that 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 from the alienation of ships or aircraft operated in international traffic by an enterprise of a Contracting State, or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that Contracting State.
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.

ARTICLE 14 - INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is a resident of a Contracting State from the performance of professional services or other activities of an independent character shall be taxable only in that State, except in the following circumstances when such income may also be taxed in the other Contracting State:
 - (a) if 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 amounting to or exceeding in the aggregate 183 days within any twelve-month period; in that case, only so much of the income as is derived from his activities performed in that other Contracting State may be taxed in that other Contracting 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, 19, 20 and 21, 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 may be taxed in that Contracting 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 or supervisory board (in Portugal, conselho fiscal) or of another similar organ 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 personal activities exercised by an entertainer or a sportsman in his capacity as such 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.

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

ARTICLE 18 - PENSIONS

Subject to the provisions of paragraph 2 of Article 19, 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 or administrative subdivision or a local authority or a statutory body thereof to an individual in respect of services rendered to that State or subdivision or authority or body shall be taxable only in that State.
 - (b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2.
 - (a) Any pension paid by, or out of funds created by, a Contracting State or a political or administrative subdivision or a local authority or a statutory body thereof to an individual in respect of services rendered to that State or subdivision or authority or body shall be taxable only in that State.
 - (b) However, such 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 or administrative subdivision or a local authority or a statutory body thereof.

ARTICLE 20 - PROFESSORS AND RESEARCHERS

1. An individual who is or was a resident of a Contracting State immediately before visiting the other Contracting State solely for the purposes of teaching or scientific research at a university, college, school, or other similar educational or scientific research institution which is recognised as non-profitable by the Government of that other State, or under an official programme of cultural exchange, for a period not exceeding two years from the date of his first arrival in that other State, shall be exempt from tax in that other State on his remuneration for such teaching or research.

2. The preceding provision of this Article shall also apply to an individual who carries out research within the scope of a scholarship granted by a government, religious, charitable, scientific, literary or educational organization, if such scholarship is exempt from tax.

ARTICLE 21 - 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 22 - 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 23 - LIMITATION OF RELIEF

1. Where this Agreement provides (with or without other conditions) that income from sources in Portugal shall be exempt from tax, or taxed at a reduced rate, in Portugal 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 Portugal 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 both competent authorities for the purpose of this paragraph.

CHAPTER IV METHODS FOR ELIMINATION OF DOUBLE TAXATION

ARTICLE 24 - ELIMINATION OF DOUBLE TAXATION

1. In the case of Portugal double taxation shall be eliminated as follows:

Where a resident of Portugal derives income which, in accordance with the provisions of this Agreement, may be taxed in Singapore, Portugal shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in Singapore. Such deduction shall not, however, exceed that part of the income tax as computed before the deduction is given, which is attributable to the income which may be taxed in Singapore.

2. In the case of Singapore double taxation shall be eliminated as follows:

Where a resident of Singapore derives income from Portugal which, in accordance with the provisions of this Agreement, may be taxed in Portugal, Singapore shall, subject to its laws regarding the allowance as a credit against Singapore tax of tax payable in any country other than Singapore (which shall not affect the general principles hereof), allow the Portuguese 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 Portugal 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 Portuguese tax paid by that company on the portion of its profits out of which the dividend is paid.

3. Where in accordance with any provisions of this Agreement income derived by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

CHAPTER V SPECIAL PROVISIONS

ARTICLE 25 - 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. Nothing in this provision shall be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 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.

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 26 - 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 25, 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, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

ARTICLE 27 - 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) 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 28 - MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

CHAPTER VI FINAL PROVISIONS

ARTICLE 29 - ENTRY INTO FORCE

1. This Agreement shall enter into force on the thirtieth day after the date on which diplomatic notes indicating the completion of internal legal procedures necessary in each Contracting State for the entry into force of this Agreement have been exchanged.

2. This Agreement shall apply:

(a) in Portugal:

- (i) in respect of taxes withheld at source, the fact giving rise to them appearing on or after the first day of January of the year next following the year in which this Agreement enters into force;
- (ii) in respect of other taxes as to income arising in the fiscal year beginning on or after the first day of January of the year next following the year in which this Agreement enters into force;

(b) in Singapore:

in respect of tax chargeable for any year of assessment beginning on or after 1 January of the second calendar year next 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 a notice specifying the year of termination at least six months before 31 December of the year so specified in the said notice. A notice may only be given after the expiration of a period of 5 years from the date on which the Agreement enters into force. In such event, the Agreement shall cease to have effect:

- (a) in Portugal:
- (i) in respect of taxes withheld at source, the fact giving rise to them appearing on or after the first day of January of the year next following that specified in the said notice of termination;
 - (ii) in respect of other taxes, as to income arising in the fiscal year beginning on or after the first day of January of the year next following that specified in the said notice of termination;
- (b) in Singapore:
- in respect of tax chargeable for any year of assessment beginning on or after 1 January of the second calendar year next following that specified in the said notice of termination.

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

DONE in duplicate at Singapore this 7th day of September 1999 in the Portuguese and English languages, both texts being equally authentic. In case of any divergence of interpretation or application of this Agreement, the English text shall prevail.

For the Government of the
Republic of Singapore

DR RICHARD HU

For the Government of the
Portuguese Republic

PROF DOUTOR ANTONIO LUCIANO
PACHECO DE SOUSA FRANCO

PROTOCOL (1999)

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

AD ARTICLE 4

If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

AD ARTICLE 6

1. Income referred to in paragraph 5 means:
 - (a) the amounts in respect of services in connection with the use, in whole or in part, of immovable property;
 - (b) the amounts in respect of the lease of machinery and furniture located in the rented immovable property where such amounts are included as consideration for the use of such property;
 - (c) the amounts in respect of the temporary transfer of the exploitation of a commercial, industrial or agricultural establishment, after deduction of the rent paid, where the transferor is not the holder of the right to the property in which such establishment is situated.
2. Any movable property that is set up on the same site for a period of more than twelve months shall be deemed to be immovable property.

AD ARTICLE 10

1. Under the current Singapore laws, where dividends are paid by a company which is a resident of Singapore to a resident of Portugal who is the beneficial owner of such dividends, there is not tax in Singapore which is chargeable on dividends in addition to the tax chargeable in respect of the profits or income of the company.

2. 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 Portugal who is the beneficial owner of such dividends shall be in accordance with the provisions of paragraphs 1 and 2 of Article 10.

AD ARTICLES 11 AND 23

In the case of Singapore, the Government of Singapore shall include:

- (a) the Monetary Authority of Singapore and the Board of Commissioners of Currency;
- (b) the Government of Singapore Investment Corporation Pte-Ltd;
- (c) a statutory body or 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.

AD ARTICLE 12

With reference to paragraph 3, the term "royalties" also comprises payments derived from the use of, or the right to use, software as well as payments received as a consideration for technical assistance in connection with the use, or the right to use, any copyright, goods or information to which that paragraph applies. It is understood that payments received as a consideration for technical assistance not in connection with the use, or the right to use, any such copyright, goods or information shall be dealt with in Article 7 or Article 14. If the person who receives the consideration for technical assistance is different from and independent of the person who receives the consideration for the use of, or the right to use, such copyright, goods or information, the technical assistance shall be considered as not in connection with the use, or the right to use, such copyright, goods or information.

AD ARTICLE 15

With reference to paragraph 3 it is understood that remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State is taxable only in that State unless the remuneration is derived by a resident of the other Contracting State.

AD ARTICLE 17

It is understood that in paragraph 2 the phrase "income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such" means any income that is connected with the personal activities exercised by an entertainer or a sportsman relating to his reputation as an entertainer or a sportsman.

AD ARTICLE 25

1. The provisions of Article 25 do not preclude the application of any provision of the tax law of the Contracting States dealing with thin capitalisation problems.

2. The provisions of Article 25 shall be construed in the sense that insofar as the deductibility of the incurred disbursements is concerned, each Contracting State may apply its own procedures regarding the burden of proof.

3. With reference to paragraph 3 of Article 25 of the Agreement, it is understood that, for the purposes of allowing deduction of a payment of expenses to a non-resident, nothing in the said paragraph shall be construed as preventing Singapore from imposing any obligation to withhold tax from such a payment.

4. Granting by Singapore of the following tax reliefs or incentives shall not be construed as discrimination under Article 25:

- (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.

5. Granting by Portugal of tax reliefs or incentives identical or similar to those referred to in paragraph 4 shall not be construed as discrimination under Article 25.

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

DONE in duplicate at Singapore this 7th day of September 1999, in the Portuguese and English languages, both texts being equally authentic. In case of any divergence of interpretation or application of this Protocol, the English text shall prevail.

For the Government of the
Republic of Singapore

DR RICHARD HU

For the Government of the
Portuguese Republic

PROF DOUTOR ANTONIO LUCIANO
PACHECO DE SOUSA FRANCO

ANNEX A

Effects of the MLI on this Agreement

1. Deletion and replacement of Preamble

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

“The Republic of Singapore and the Portuguese Republic,

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 the Agreement is deleted and replaced by the following paragraph:

“2. Where a Contracting State includes in the profits of an enterprise of that Contracting State — and taxes accordingly — profits on which an enterprise of the other Contracting State has been charged to tax in that other Contracting State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Contracting State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Contracting State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.”.

3. Amendment of Article 26

In paragraph 2 of Article 26 (Mutual Agreement Procedure), the words “Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.”, are inserted immediately after the words “not in accordance with the Agreement.”.

4. **New Articles 26A to 26H**

The following articles shall be inserted immediately after Article 26 (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 Singapore by 27 February 2021.

“ARTICLE 26A - MANDATORY BINDING ARBITRATION

1. Where:

- (a) under Article 26 (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 26 (Mutual Agreement Procedure) within a period of three 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 26B to 26H, 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 26C (Confidentiality of Arbitration Proceedings) and 26G (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 26 (Mutual Agreement Procedure)) settle the mode of application of the provisions contained in this Article and Articles 26B to 26H, 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 26B to 26H shall not apply —
- (a) to any case involving the application of Singapore’s general anti avoidance rules contained in section 33 of the Act, case law or judicial doctrines, and any subsequent provisions (as notified by Singapore to the Depository 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;
 - (b) to any case involving the application of any provisions of Singapore’s law (including legislative provisions, case law, judicial doctrines and penalties) that are analogous to those governing the cases in subparagraph (d), (e) or (f) , including any subsequent provisions which replace, amend or update those provisions. The competent authority of Singapore will consult with the competent authority of Portugal in order to specify any such analogous provisions which exist under Singapore law pursuant to paragraph 10;
 - (c) to any issue other than the following:
 - (i) issues arising under Article 5 (Permanent Establishment) of the Agreement;
 - (ii) issues arising under Article 7 (Business Profits) of the Agreement;
 - (iii) issues arising under Article 9 (Associated Enterprises of the Agreement);
 - (d) to any case concerning items of income or capital that are not taxed by Portugal either because they are not included in the taxable base in Portugal or because they are subject to an exemption or zero tax rate provided only under the domestic tax law of Portugal;
 - (e) to any case involving the conduct of a person directly affected by the case that, by final ruling resulting from judicial or administrative proceedings in Portugal, has been subject to a penalty for tax fraud, wilful default or gross negligence. For this purpose, penalties for tax fraud, wilful default or gross negligence shall include the penalties for tax crimes as well as for other serious tax infringements as defined by Article 23(3) of RGIT (Regime Geral das Infrações Tributárias), enacted by the Law 15/2001, of 5 June 2001, and any subsequent provisions (as notified by Portugal to the Depository 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 provisions;

- (f) to any case involving the application of Portugal's domestic general anti avoidance rules or anti-abuse rules contained in the Agreement as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting. For this purpose, Portugal's domestic general anti-avoidance rules shall include Articles 38 and 39 of LGT (Lei Geral Tributária) enacted by the Decree-Law 398/98, of 17 December 1998, as amended, and any subsequent provisions (as notified by Portugal to the Depository 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; or
- (g) to any case eligible for arbitration under the Convention on the Elimination of Double Taxation in Connection with the Adjustment of Profits of Associated Enterprises (90/436/EEC), as amended, or the European Union Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union, or under any other instrument of the European Union.

13. This Article and Articles 26B to 26H —

- (a) shall have effect with respect to cases presented to the competent authority of a Contracting State under Article 26 on or after 1 June 2020; and
- (b) shall apply to a case presented to the competent authority of a Contracting State under Article 26 prior to 1 June 2020 only to the extent that the competent authorities of both Contracting States agree that it will apply to that specific case.

ARTICLE 26B - 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 26A to 26H.

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 26A (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 26C - CONFIDENTIALITY OF ARBITRATION PROCEEDINGS

1. Solely for the purposes of the application of Articles 26A to 26H and 27 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 27 (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 27 (Exchange of Information) and under the applicable laws of the Contracting States.

ARTICLE 26D - RESOLUTION OF A CASE PRIOR TO THE CONCLUSION OF THE ARBITRATION

For the purposes of Articles 26 and 26A to 26H, 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 26E - TYPE OF ARBITRATION PROCESS

1. The competent authorities of the Contracting States shall endeavour to reach agreement on the type of arbitration process that shall apply with respect to the Agreement. Until such an agreement is reached, Article 26A shall not apply with respect to the Agreement.

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 26, as well as the arbitration proceeding under Articles 26A to 26H, 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 26F - AGREEMENT ON A DIFFERENT RESOLUTION

Notwithstanding paragraph 4 of Article 26A (Mandatory Binding Arbitration), an arbitration decision pursuant to Articles 26A to 26H shall not be binding on the Contracting States and shall not be implemented if the competent authorities of the Contracting States agree on a different resolution of all unresolved issues within three calendar months after the arbitration decision has been delivered to them.

ARTICLE 26G - COSTS OF ARBITRATION PROCEEDINGS

In an arbitration proceeding under Articles 26A to 26H, 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 26H – 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 26A to 26G 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 26A to 26G 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.”.

5. New Article 28A

The following new Article 28A is inserted immediately after Article 28 (Members of Diplomatic Missions and Consular Posts):

“ARTICLE 28A - PREVENTION OF TREATY ABUSE

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.”.

6. 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 4 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 June 2020;
- (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 2021; 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 December 2020.

ANNEX B

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

The Republic of Singapore and the Portuguese Republic,

Desiring to amend the Agreement between the Republic of Singapore and the Portuguese Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (hereinafter referred to as "the Agreement"),

Have agreed as follows:

ARTICLE I

The text of Article 27 of the Agreement is deleted and replaced by the following:

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

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

4. If information is requested by a Contracting State in accordance with the provisions of 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 of this Article 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 II

This Protocol shall enter into force on the thirtieth day after the date on which diplomatic notes indicating the completion of internal legal procedures necessary in each Contracting State for the entry into force of this Protocol have been exchanged.

ARTICLE III

This Protocol shall form an integral part of the Agreement and shall remain in force as long as the Agreement remains in force.

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

DONE in duplicate at Singapore on this 28th day of May 2012, in the Portuguese and English languages, both texts being equally authentic. In the case of any divergence of interpretation or application of this Protocol, the English text shall prevail.

For the Republic of Singapore

For the Portuguese Republic

**Masagos Zulkifli Bin
Masagos Mohamad
Minister of State
Ministry of Home Affairs &
Ministry of Foreign Affairs**

**José de Almeida Cesário
Secretary of State of Portuguese
Communities Abroad**