

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

Date of Conclusion: 19 October 1991.

Entry into Force: 20 November 1992.

Effective Date: 1 January 1993.

NOTE

Singapore and Papua New Guinea 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 and 23 January 2019 respectively. Singapore and Papua New Guinea ratified the MLI on 21 December 2018 and 31 August 2023 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 – Papua New Guinea) (Avoidance of Double Taxation Agreement) (Modifications to Implement Multilateral Instrument) Order 2023, which has entered into force on 1 December 2023, 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.

The Government of the Republic of Singapore and the Government of the Independent State of Papua New Guinea,

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

Have agreed as follows:

ARTICLE 1 - PERSONAL SCOPE

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

ARTICLE 2 - TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of each Contracting State or of its local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of personal or real property.
3. The existing taxes to which this Agreement shall apply are:
 - (a) in the case of Papua New Guinea:

the income tax imposed under the law of Papua New Guinea, including:

 - (i) the salary of wages tax;
 - (ii) the additional profits tax upon taxable additional profits from mining operations;
 - (iii) the additional profits tax upon taxable additional profits from petroleum operations;
 - (iv) the specific gains tax upon taxable specific gains; and
 - (v) the dividend withholding tax upon taxable dividend income;

(hereinafter referred to as "Papua New Guinea tax");
 - (b) in the case of the Republic of Singapore:

the income tax;

(hereinafter referred to as "Singapore tax").
4. This Agreement shall also apply to any identical or substantially similar taxes which are imposed under the law of Singapore or under the law of Papua New Guinea after the date of signature of this 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 are made in the laws of their respective States relating to the taxes to which this Agreement applies.
5. If by reason of changes made in the taxation law of either Contracting State, it seems desirable to amend any Article of this Agreement without affecting the general principles thereof, the necessary amendments may be made by mutual consent by means of an exchange of diplomatic notes or in any other manner in accordance with their constitutional procedures.

ARTICLE 3 - GENERAL DEFINITIONS

1. In this Agreement, unless the context otherwise requires:
 - (a) the term "Papua New Guinea" means the Independent State of Papua New Guinea and, when used in a geographic sense, includes any area adjacent to

the territorial limits of Papua New Guinea in respect of which there is for the time being in force, consistently with international law, a law of Papua New Guinea dealing with the exploitation of any of the natural resources of the continental shelf, its sea-bed and subsoil;

- (b) the term "Singapore" means the Republic of Singapore;
- (c) the terms "a Contracting State" and "the other Contracting State" mean Papua New Guinea or Singapore as the context requires;
- (d) the term "tax" means Papua New Guinea tax or Singapore tax as the context requires;
- (e) the term "person" includes an individual, a company and any other entity which is treated as a taxable entity under the tax laws of the respective Contracting States;
- (f) the term "company" means any company, body corporate or any other entity which is treated as a company under the tax laws of the respective Contracting States;
- (g) 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;
- (h) the term "national" means any individual possessing the nationality or citizenship of the respective Contracting States and also any legal person, partnership and association deriving their status as such from the laws in force in the respective Contracting States;
- (i) the term "competent authority" means, in the case of Papua New Guinea, the Chief Collector of Taxes or an authorised representative of the Chief Collector of Taxes and in the case of Singapore, the Minister of Finance or his authorised representative.

2. In this Agreement, the terms "Singapore tax" and "Papua New Guinea tax" do not include any penalty or interest imposed under the law of either Contracting State relating to the taxes to which this Agreement applies by virtue of Article 2.

3. As regards the application of this Agreement by a Contracting State, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Agreement.

ARTICLE 4 - FISCAL DOMICILE

1. For the purposes of this Agreement, a person is a resident of one of the Contracting States:

- (a) in the case of Singapore, if the person is a resident of Singapore for the purposes of Singapore tax; and

- (b) in the case of Papua New Guinea, if the person is a resident of Papua New Guinea for the purposes of Papua New Guinea tax.
- 2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his case shall be determined in accordance with the following rules:
 - (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);
 - (b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
 - (c) if he has an habitual abode in both Contracting States or in neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
- 3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated. If its place of management cannot be determined, the competent authorities of the Contracting States shall settle the question by mutual agreement.

ARTICLE 5 - PERMANENT ESTABLISHMENT

- 1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
- 2. The term "permanent establishment" includes especially:
 - (a) a place of management;
 - (b) a branch;
 - (c) an office;
 - (d) a factory;
 - (e) a workshop;
 - (f) a mine, an oil or gas well, a quarry or any other place of extraction of a natural resource;
 - (g) an agricultural, pastoral or forestry property; and
 - (h) a building site or construction, installation or assembly project which exists for more than 183 days in any calendar year.

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

- (a) the use of facilities solely for the purpose of storage or display or occasional 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 or display or occasional 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 for collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of activities which have a preparatory or auxiliary character for the enterprise, such as advertising or scientific research.

4. An enterprise shall be deemed to have a permanent establishment in one of the Contracting States if:

- (a) it carries on supervisory activities in that State for more than 183 days in any calendar year in connection with a building site, or a construction, installation or assembly project which is being undertaken in that State;
- (b) substantial equipment is being used for the purpose of mining or petroleum exploration in that State by, for or under a contract with the enterprise; or
- (c) services (other than services in relation to the activities mentioned in paragraphs 2(h) and 4(a)) are furnished in that State, including consultancy services, through employees or other personnel engaged by the enterprise for such purposes, and those activities continue for the same or connected project within that State for a period or periods aggregating more than 90 days in any calendar year.

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

- (a) the person has, and habitually exercises in that State, an authority to conclude contracts on behalf of the enterprise, unless the person's activities are limited to the mere purchase of goods or merchandise for the enterprise;
- (b) the person has no such authority, but habitually maintains in that State a stock of goods or merchandise from which the person regularly delivers in that State goods or merchandise on behalf of the enterprise; or
- (c) in so acting, the person manufactures or processes for and on behalf of the enterprise in that State goods or merchandise belonging to the enterprise.

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 REAL PROPERTY

1. Income from real property may be taxed in the Contracting State in which the real property is situated.

2. In this Article, the term "real property", in relation to one of the Contracting States, has the meaning which it has under the laws of that State and also includes:

- (a) a lease of land and any other interest in or over land including a right to explore for mineral, oil or gas deposits or other natural resources, and a right to mine such deposits or resources; and
- (b) a right to receive variable or fixed payments either as consideration for the exploitation of or the right to explore for or exploit, or in respect of the exploitation of, mineral, oil or gas deposits, quarries or other places of extraction or exploitation of natural resources.

3. Any interest or right referred to in paragraph 2 shall be regarded as situated where the land, mineral, oil or gas deposits, quarries or natural resources, as the case may be, are situated or where the exploration may take place.

4. The provisions of paragraphs 1 and 3 shall also apply to income from real property of an enterprise and to income from real property used for the performance of independent personal services.

ARTICLE 7 - BUSINESS PROFITS

1. The profits of an enterprise of one of the Contracting States 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 one of the Contracting States 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 or with other enterprises with which it deals.

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses of the enterprise, being expenses which are incurred for the purposes of the permanent establishment (including executive and general administrative expenses so

incurred) and which would be deductible if the permanent establishment were an independent entity which paid those expenses, 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. 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.

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. Nothing in this Article shall affect the application of any law of a Contracting State relating to the determination of the tax liability of a person in cases where the information available to the competent authority of that State is inadequate to determine the profits to be attributed to a permanent establishment, provided that that law shall be applied, so far as the information available to the competent authority permits, consistently with the principles of this Article.

8. 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.

9. Nothing in this Article shall affect the operation of:

- (a) any law of Papua New Guinea in so far as it relates to the tax chargeable on that part, deemed to be taxable income, of an insurance premium paid to an enterprise of Singapore, provided that the tax rate applied to such income shall not exceed the rate which would be imposed on the income of a corporation resident in Papua New Guinea and carrying on an insurance business; or
- (b) the law of Papua New Guinea relating to:
 - (i) the specific gains tax upon taxable specific gains; or
 - (ii) the taxation of income derived by a foreign contractor from a prescribed contract within the meaning of that law, where, in accordance with this Agreement, that contractor is a resident of Singapore with a permanent establishment in Papua New Guinea, provided that if the relevant law in force in either Contracting State at the date of signature of this Agreement is varied (otherwise than in minor respects so as not to affect its general character) the Contracting States shall consult with each other with a view to agreeing to any amendment of this paragraph that may be appropriate.

10. Where:

- (a) a resident of a Contracting State is beneficially entitled, whether directly or through one or more interposed trust estates, to a share of the business profits

of an enterprise carried on in the other Contracting State by the trustee of a trust estate other than a trust estate which is treated as a company for tax purposes; and

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

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

ARTICLE 8 - SHIPPING AND AIR TRANSPORT

1. Income derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be exempt from tax in the other Contracting State unless the ships or aircraft are operated wholly between places within the other Contracting State.

2. The provisions of paragraph 1 shall likewise apply in respect of income derived from participation in pools of any kind by enterprises engaged in shipping or air transport.

3. Income derived by an enterprise of a Contracting State from the operation of ships or aircraft shall include:

- (a) income from rental of ships and aircraft used in international transport on a full (time or voyage) or bareboat basis;
- (b) income from rental of containers and related equipment used in international transport which is incidental to income from the operation of ships or aircraft in international traffic; and
- (c) gains from the alienation of ships and aircraft by a person whose predominant activity is the operation of ships or aircraft in international traffic.

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

ARTICLE 9 - ASSOCIATED ENTERPRISES

1. Where:

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

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between

independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Nothing in this Article shall affect the application of any law of a Contracting State relating to the determination of the tax liability of a person, including determinations in cases where the information available to the competent authority of that State is inadequate to determine the income to be attributed to an enterprise, provided that that law shall be applied, so far as it is practicable to do so, consistently with the principles of this Article.

3. Where profits on which an enterprise of one of the Contracting States have been charged to tax in that State are to be included, by virtue of paragraph 1, in the profits of an enterprise of the other Contracting State and charged to tax in that other State, and the profits so included are profits which might have been expected to have accrued to that enterprise of the other State if the conditions operative between the enterprises had been those which might have been expected to have operated between independent enterprises dealing wholly independently with one another, then the competent authorities of the Contracting States shall consult with each other, with a view to the avoidance of double taxation, to determine by mutual agreement, with due regard for the other provisions of this Agreement, the amount of profit to be taxed in each of the States.

ARTICLE 10 - DIVIDENDS

1. Dividends paid by a company which is a resident of one of the Contracting States for the purposes of its tax, being dividends to which a resident of the other Contracting State is beneficially entitled, may be taxed in that other State.

2. Such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident for the purposes of its tax, and according to the law of that State, but the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

3. The provisions of paragraph 2 shall apply to dividends paid by a company which is a resident of Singapore if Singapore, subsequent to the date of signature of this Agreement, imposes a tax on dividends in addition to the tax chargeable in respect of the profits or income of the company.

4. 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.

5. The provisions of paragraph 2 shall not apply if the person beneficially entitled to the dividends, being a resident of one of the Contracting States, 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 any such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively

connected with a permanent establishment 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.

7.

- (a) Dividends shall be deemed to arise in Papua New Guinea if they are paid by a company which is a resident of Papua New Guinea;
- (b) Dividends shall be deemed to arise in Singapore:
 - (i) if they are paid by a company which is a resident of Singapore; or
 - (ii) if they are paid by a company which is a resident of Malaysia out of profits arising in Singapore and qualifying as dividends arising in Singapore under Article VII of the Agreement for the Avoidance of Double Taxation between Singapore and Malaysia signed on 26th December 1968.

ARTICLE 11 - INTEREST

1. Interest arising in one of the Contracting States, being interest to which a resident of the other Contracting State is beneficially entitled, may be taxed in that other State.

2. Such interest may be taxed in the Contracting State in which it arises, and according to the law of the State, but the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. 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.

4. The provisions of paragraph 2 shall not apply if the person beneficially entitled to the interest, being a resident of one of the Contracting States, 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 indebtedness in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In that case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority, or a statutory body of that State or a person who is a resident of that State for the purposes of its tax. 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 that State in which the permanent establishment or fixed base is situated.

6. Where, owing to a special relationship between the payer and the person beneficially entitled to the interest, or between both of them and some other person, the amount of the interest paid, having regard to the indebtedness for which it is paid, exceeds the amount which might have been expected to have been agreed upon by the payer and the person so entitled in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the amount of the interest paid shall remain taxable according to the law, relating to tax, of each Contracting State, but subject to the other provisions of this Agreement.

ARTICLE 12 - ROYALTIES

1. Royalties arising in one of the Contracting States, being royalties to which a resident of the other Contracting State is beneficially entitled, may be taxed in that other State.

2. Such royalties may be taxed in the Contracting State in which they arise, and according to the law of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

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

- (a) the use of, or the right to use, any copyright, patent, design or model, plan, secret formula or process, trademark, or other like property or right;
- (b) the use of, or the right to use, any industrial, commercial or scientific equipment, other than ships or aircraft;
- (c) the supply of scientific, technical, industrial or commercial knowledge or information;
- (d) the supply of any assistance that is ancillary and subsidiary to, and is furnished as a means of enabling the application or enjoyment of, any such property or right as is mentioned in sub-paragraph (a), any such equipment as is mentioned in sub-paragraph (b) or any such knowledge or information as is mentioned in sub-paragraph (c);
- (e) the use of, or the right to use:
 - (i) motion picture films;
 - (ii) films or video tapes for use in connection with television; or
 - (iii) tapes for use in connection with radio broadcasting; or
- (f) total or partial forbearance in respect of the use or supply of any property or right referred to in this paragraph.

4. The provisions of paragraph 2 shall not apply if the person beneficially entitled to the royalties, being a resident of one of the Contracting States, 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 property or right in respect of which the royalties are paid or credited is effectively connected with such permanent establishment or fixed base. In that case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a statutory body of that State or a person who is a resident of that State for the purposes of its tax. Where, however, the person paying the royalties, whether he is a resident of one of the Contracting States or not, has in one of the Contracting States a permanent establishment or fixed base in connection with which the liability to pay the royalties was incurred, and the royalties are borne by the permanent establishment or fixed base, then the 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 - ALIENATION OF PROPERTY

1. Income or gains derived by a resident of one of the Contracting States from the alienation of real property situated in the other Contracting State may be taxed in that other State.

2. Income or gains from the alienation of property, other than real property, that forms part of the business property of a permanent establishment which an enterprise of one of the Contracting States has in the other Contracting State or pertains to a fixed base available to a resident of the first-mentioned State in that other State for the purpose of performing independent personal services, including income or gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such a fixed base, may be taxed in that other State.

3. Income or gains from the alienation of ships or aircraft operated in international traffic, or of property other than real property pertaining to the operation of those ships or aircraft, shall be taxable only in the Contracting State of which the person who operated those ships or aircraft is a resident.

4. Income or gains derived by a resident of one of the Contracting States from the alienation of shares or comparable interests in a company, the assets of which consist wholly or principally of real property situated in the other Contracting State, may be taxed in that other State.

5. A taxable gain which is subject to specific gains tax within the meaning of the Law of Papua New Guinea relating to Papua New Guinea tax, derived by a resident of Singapore from the disposal of shares in a company that is a resident of Papua New Guinea, may be taxed in Papua New Guinea. The tax shall, however, not exceed an amount equivalent to 15 per cent of that proportion of the total dividend to which the vendor would have been entitled in respect of those shares had the company declared a dividend to the extent of its undistributed profits.

6. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3, 4 and 5, shall be taxable only in the Contracting State of which the alienator is a resident.

7. In this Article, the term "real property" has the same meaning as in Article 6.

8. For the purposes of this Article, real property shall be deemed to be situated:
- (a) where it consists of an interest in or over land - in the Contracting State in which the land is situated; and
 - (b) where it consists of an interest or right referred to in paragraph 2 of Article 6 - in the Contracting State where the land, mineral, oil or gas deposits, quarries or natural resources, as the case may be, are situated or where the exploration may take place.

ARTICLE 14 - INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is a resident of one of the Contracting States in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless:

- (a) a fixed base is regularly available to the individual in the other State for the purpose of performing the individual's activities. If such a fixed base is available to the individual, the income may be taxed in the other State but only so much of it as is attributable to activities exercised from that fixed base; or
- (b) the income is derived from his performance of professional services in that other State for a resident of that State or a permanent establishment in that State and exceeds an amount of K 15,000 or its equivalent in Singapore Dollars in any calendar year. In that case so much of the income as is derived from his activities in that other State may be taxed in that State; or
- (c) his stay in that other State exceeds 90 days in any calendar year. In that case so much of the income as is derived from his activities in that other State may be taxed in that State.

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

ARTICLE 15 - DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19 and 21 salaries, wages, gratuities and other similar remuneration derived by an individual who is a resident of one of the Contracting States 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 an individual who is a resident of one of the Contracting States 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 that other State for a period or periods not exceeding in the aggregate 183 days in any calendar year; and

- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of that 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 in respect of an employment exercised aboard a ship or aircraft operated in international traffic by a resident of one of the Contracting States shall be taxable only in that 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 ATHLETES

1. Notwithstanding the provisions of Articles 14 and 15, income derived by entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

2. Where income arising from the activities of an entertainer or athlete accrues not to that entertainer or athlete but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities performed in a Contracting State by entertainers or athletes if the visit to that Contracting State is wholly or substantially supported by public funds of the other Contracting State, including any local authority or statutory body thereof.

ARTICLE 18 - PENSIONS

Pensions (including government pensions) paid in consideration of past employment and annuities, derived by a resident of one of the Contracting States from the other Contracting State may be taxed in both the Contracting States.

ARTICLE 19 - GOVERNMENT SERVICE

1. Remuneration, other than a pension, paid by one of the Contracting States or a political subdivision, a local authority or a statutory body of that State to any individual in respect of services rendered to that State or subdivision or authority or body shall be taxable only in that State. However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the recipient is a resident of that other State who:

- (a) is a citizen or national of that State; or

- (b) did not become a resident of that State solely for the purpose of performing the services.

2. The provisions of paragraph 1 shall not apply to remuneration in respect of services rendered in connection with any trade or business carried on by one of the Contracting States or a political subdivision, a local authority or a statutory body of that State. In such a case, the provisions of Article 15 or Article 16, as the case may be, shall apply.

ARTICLE 20 - LIMITATION OF RELIEF

1. Where this agreement provides (with or without other conditions) that income from sources in Papua New Guinea shall be exempt from tax, or taxed at a reduced rate, in Papua New Guinea 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 Papua New Guinea shall apply only to so much of the income as is remitted to or received in Singapore.

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

ARTICLE 21 - STUDENTS

Where a student, who is a resident of one of the Contracting States or who was a resident of that State immediately before visiting the other Contracting State and who is temporarily present in that other State solely for the purpose of his or her education, receives payments from sources outside that other State for the purpose of his or her maintenance or education, those payments shall be exempt from tax in that other State.

ARTICLE 22 - INCOME OF GOVERNMENT

1. Notwithstanding the provisions of this Agreement the Government of one of the Contracting States shall be exempt from tax in the other Contracting State in respect of any income derived by that Government from sources within the other State.

2. For the purposes of paragraph 1 of this Article the term "Government":

- (a) 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, Singapore;
 - (ii) the Government of Singapore Investment Corporation Pte. Ltd;
 - (iii) a statutory body; and

- (iv) any institution wholly or mainly owned by the Government of Singapore, a local authority or a statutory body thereof, as may be agreed between the competent authorities;
- (b) in the case of Papua New Guinea means the Government of Papua New Guinea and shall include:
 - (i) the Bank of Papua New Guinea;
 - (ii) a Provincial Government;
 - (iii) a Local Government Council;
 - (iv) a statutory body; and
 - (v) any institution wholly or mainly owned by the Government of Papua New Guinea, a Provincial Government or a local government council or a statutory body thereof, as may be agreed between the competent authorities.

ARTICLE 23 - INCOME NOT EXPRESSLY MENTIONED

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

ARTICLE 24 - NON-DISCRIMINATION

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

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

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

4. Nothing contained in paragraphs 1, 2 and 3 of this Article shall be construed as:

- (a) obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions which it grants to its own residents;
- (b) affecting any provisions of the tax laws of the respective Contracting States regarding the imposition of tax on non-resident persons as such;

- (c) obliging a Contracting State to grant to nationals of the other Contracting State those personal allowances, reliefs and reductions for tax purposes which it grants to its own citizens who are not resident in that Contracting State or to such other persons as may be specified in the taxation laws of that Contracting State; and
- (d) affecting any provisions of the tax laws of the respective Contracting States regarding any tax concessions granted to persons fulfilling specified conditions.

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

ARTICLE 25 - ELIMINATION OF DOUBLE TAXATION

1. Subject to the provisions of the laws of Singapore regarding the allowance as a credit against Singapore tax of tax payable in a territory outside Singapore (which shall not affect the general principle hereof), tax payable under the laws of Papua New Guinea and in accordance with this Agreement, whether directly or by deduction, on profits, income or chargeable gains from sources within Papua New Guinea shall be allowed as a credit against any Singapore tax computed by reference to the same profits, income or chargeable gains on which the Papua New Guinea tax is computed. Where such income is a dividend paid by a company which is a resident of Papua New Guinea to a resident of Singapore which owns not less than 10 per cent of the share capital of the company paying the dividends, the credit shall take into account Papua New Guinea tax payable in respect of its profits by the company paying the dividends. The credit shall not, however, exceed that part of the Singapore tax, as computed before the credit is given, which is attributable to such items of profit, income or chargeable gains.

2. For the purpose of paragraph 1, Papua New Guinea tax paid shall:

- (a) include an amount equivalent to the amount of any Papua New Guinea tax forgone; and
- (b) in respect of interest within the meaning of Article 11, be deemed to be 10 per cent of the gross amount of the interest where such interest is derived by a bank or financial institution which is a resident of Singapore.

3. In paragraph 2(a), the term "Papua New Guinea tax forgone" means an amount which, under the law of Papua New Guinea relating to Papua New Guinea tax and in accordance with this Agreement, would have been payable as Papua New Guinea tax on income but for an exemption from, or a reduction of, Papua New Guinea tax on that income resulting from the operation of:

- (a) Section 45B(1) or (2), 45L, 72A(3) or (4), 72C(4) or (5), 97 or 97A of the Papua New Guinea Income Tax Act 1959 as amended; or
- (b) the Industrial Development (Incentives to Pioneer Industries) Act,

insofar as those provisions were in force on, and have not been modified since, the date of signature of this Agreement, or have been modified only in minor respects so as not to affect the general character, or any other provision which may subsequently be made granting an exemption from or a reduction of tax which the Minister for Finance of Singapore and the Minister for Finance and Planning of Papua New Guinea, or their authorised representatives, agree from time to time in letters exchanged for

this purpose to be of a substantially similar character, if that provision has not been modified thereafter or has been modified in minor respects so as not to affect its general character.

4. Subject to the provisions of the laws of Papua New Guinea regarding the allowance as a credit against Papua New Guinea tax of tax payable in a territory outside Papua New Guinea (which shall not affect the general principle hereof), tax payable under the laws of Singapore and in accordance with this Agreement, whether directly or by deduction, on profits, income or chargeable gains from sources within Singapore shall be allowed as a credit against any Papua New Guinea tax computed by reference to the same profits, income or chargeable gains on which the Singapore tax is computed. Where such income is a dividend paid by a company which is a resident of Singapore to a resident of Papua New Guinea which owns not less than 10 per cent of the share capital of the company paying the dividends, the credit shall take into account Singapore tax payable in respect of its profits by the company paying the dividends.

ARTICLE 26 - MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Agreement, he may notwithstanding the remedies provided by the national laws of those States, present the case to the competent authority of the Contracting State of which he is a resident. The case must be presented within four years from the date of assessment or of the withholding of tax at the source whichever is later.

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 an appropriate 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 not in accordance with this Agreement. If an agreement is reached, it shall be implemented notwithstanding any time limits prescribed in the tax laws of the Contracting States.

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

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of applying the provisions of this Agreement.

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. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment or collection of the taxes which are the subject of this Agreement or the determination of appeals or the prosecution of offences in relation thereto.

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

- (a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;
- (b) to supply particulars which are 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.

ARTICLE 28 - DIPLOMATIC AND CONSULAR OFFICIALS

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

ARTICLE 29 - ENTRY INTO FORCE

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

- (a) in Singapore:
 - in respect of Singapore tax for any year of assessment beginning on or after 1st January in the second calendar year following that in which the Agreement enters into force;
- (b) in Papua New Guinea:
 - (i) in respect of withholding tax on income that is derived by a non-resident, in relation to income derived on or after 1st January in the calendar year immediately following that in which the Agreement enters into force;
 - (ii) in respect of other Papua New Guinea tax, in relation to income or gains of any year of income beginning on or after 1st January in the calendar year immediately following that in which the Agreement enters into force.

ARTICLE 30 - TERMINATION

This Agreement shall continue in effect indefinitely, but either of the Contracting States may, on or before 30 June in any calendar year beginning after the expiration of 5 years from the date of its entry into force, give to the other Contracting State through the diplomatic channel written notice of termination and, in that event, this Agreement shall cease to be effective:

- (a) in Singapore:

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

(b) in Papua New Guinea:

- (i) in respect of withholding tax on income that is derived by a non-resident, in relation to income derived on or after 1st January in the calendar year immediately following that in which the notice of termination is given;
- (ii) in respect of other Papua New Guinea tax, in relation to income or gains of any year of income beginning on or after 1st January in the calendar year immediately following that in which the notice of termination is given.

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

DONE in duplicate at Singapore this nineteenth day of October, one thousand nine hundred and ninety-one, in the English language.

FOR THE GOVERNMENT OF
THE REPUBLIC OF SINGAPORE

DR. RICHARD HU

FOR THE GOVERNMENT OF
THE INDEPENDENT STATE OF
PAPUA NEW GUINEA

HON. THOMAS NEGINTS

PROTOCOL (1991)

The Government of the Republic of Singapore and the Government of the Independent State of Papua New Guinea have agreed at the signing at Singapore on 19 October 1991 of the Agreement between the two States for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income upon the following provisions which shall form an integral part of the said Agreement.

1. With reference to Article 1:

- (a) in respect of Article 1, the Agreement applies to persons who are residents of either or both of the Contracting States;
- (b) Article 1 shall not be interpreted to extend the scope of the Agreement to a permanent establishment or fixed base which is located in a State other than Papua New Guinea or Singapore.

2. With reference to Article 2:

- (a) in respect of paragraph 5 of Article 2, when it seems desirable to amend any Article of the Agreement without affecting its general principles because of changes made in the taxation law of either Contracting State, the necessary amendments can be made by mutual consent by means of an exchange of diplomatic notes or in any other manner in accordance with their constitutional procedures;
- (b) under Section 117(1), (3), (4) and (5) of the Constitution of the Independent State of Papua New Guinea an amendment to the Agreement must be approved by the Parliament of Papua New Guinea.

Papua New Guinea and Singapore may agree to the amendment of the Agreement by the exchange of diplomatic notes, but Papua New Guinea's diplomatic note will contain advice to the effect that the amendments agreed to in the exchange will enter into force when each State notifies the other that its constitutional procedures for amendment have been complied with.

3. With reference to Article 8:

- (a) in respect of paragraph 3(a) of Article 8, income derived from the operation of ships or aircraft which is taxable on a residence basis only, includes income from the rental of ships and aircraft used in international transport on a full (time or voyage) or bareboat basis;
- (b) the reference in paragraph 3(a) of Article 8 to income from the rental of ships or aircraft used in international transport on a bareboat basis, shall be interpreted to apply only to cases where such income is derived by an enterprise which is itself a shipping or aircraft operator.

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

DONE in duplicate at Singapore this nineteenth day of October, one thousand nine hundred and ninety-one, in the English language.

FOR THE GOVERNMENT OF
THE REPUBLIC OF SINGAPORE

DR. RICHARD HU

FOR THE GOVERNMENT OF
THE INDEPENDENT STATE OF
PAPUA NEW GUINEA

HON. THOMAS NEGINTS

ANNEX A

Effects of the MLI on this Agreement

1. Replacement of Preamble

The Preamble of this Agreement is replaced with the following Preamble:

“The Government of the Republic of Singapore and the Government of the Independent State of Papua New Guinea,

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

Intending to eliminate double taxation with respect to the taxes covered by this Agreement without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third jurisdictions),

Have agreed as follows:”.

2. New Articles 26A to 26G

The following articles shall be inserted immediately after Article 26 (Mutual Agreement Procedure).

“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 two years beginning on the start date referred to in paragraph 8 or 9, as the case may be (unless, prior to the expiration of that period the competent authorities of the Contracting States have agreed to a different time period with respect to that case and have notified the person who presented the case of such agreement),

Any unresolved issues arising from the case shall, if the person so requests in writing, be submitted to arbitration in the manner described in this Article and Articles 26B to 26G, 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 26F (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 26G, 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 26G shall only apply —
 - (a) to any case involving issues arising under provisions akin to Article 4 (Resident) of the OECD Model Tax Convention, but only insofar as the issue relates to the residence of an individual;
 - (b) to any case involving issues arising under provisions akin to Article 5 (Permanent Establishment) of the OECD Model Tax Convention;
 - (c) to any case involving issues arising under provisions akin to Article 7 (Business Profits) of the OECD Model Tax Convention;
 - (d) to any case involving issues arising under provisions akin to Article 9 (Associated Enterprises) of the OECD Model Tax Convention;
 - (e) to any case involving issues arising under provisions akin to Article 12 (Royalties) of the OECD Model Tax Convention, but only insofar as such a provision might apply in transactions involving related persons

to which provisions akin to Article 9 of the OECD Model Tax Convention might apply; and

- (f) to any case involving any other provisions subsequently agreed by the Contracting States through an exchange of diplomatic notes.

13. The provisions of this Article and Articles 26B to 26G shall not apply —

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

14. This Article and Articles 26B to 26G —

- (a) shall have effect with respect to cases presented to the competent authority of a Contracting State under Article 26 (Mutual Agreement Procedure) on or after 1 December 2023; and
- (b) shall apply to a case presented to the competent authority of a Contracting State under Article 26 (Mutual Agreement Procedure) prior to 1 December 2023 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 26G.
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 26G and 27 and of the provisions of the domestic laws of the Contracting States related to the exchange of information, confidentiality, and administrative assistance, members of the arbitration panel and a maximum of three staff per member (and prospective arbitrators solely to the extent necessary to verify their ability to fulfil the requirements of arbitrators) shall be considered to be persons or authorities to whom information may be disclosed. Information received by the arbitration panel or prospective arbitrators and information that the competent authorities receive from the arbitration panel shall be considered information that is exchanged under Article 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 26G, 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 (Mandatory Binding Arbitration) 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 26G, 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 – Costs of Arbitration Proceedings

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

3. **New Article 28A**

The following new Article 28A is inserted immediately after Article 28 (Diplomatic and Consular Officials):

“Article 28A – Prevention of Treaty Abuse

1. Notwithstanding any provisions of this Agreement, a benefit under this Agreement shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Agreement.
2. Where a benefit under this Agreement is denied to a person under provisions of this Agreement that deny all or part of the benefits that would otherwise be provided under this Agreement where the principal purpose or one of the principal purposes of any arrangement or transaction, or of any person concerned with an arrangement or transaction, was to obtain those benefits, the competent authority of the Contracting State that would otherwise have granted this benefit shall nevertheless treat that person as being entitled to this benefit, or to different benefits with respect to a specific item of income or capital, if such competent authority, upon request from that person and after consideration of the relevant facts and circumstances, determines that such benefits would have been granted to that person in the absence of the transaction or arrangement. The competent authority of the Contracting State to which a request has been made under this paragraph by a resident of the other Contracting State shall consult with the competent authority of that other Contracting State before rejecting the request.”.

4. **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 2 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 December 2023;
- (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 2024; 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 June 2024.