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

Date of Conclusion: 9 April 1994

Entry into Force: 28 April 1995

Effective Date: 1 January 1996

NOTE

Singapore and Japan 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 Japan ratified the MLI on 21 December 2018 and 26 September 2018 respectively.

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

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

On 10 June 2022, the competent authorities of the Republic of Singapore and of Japan signed a competent authority arrangement ("CAA") to establish the mode of application of the arbitration proceedings provided for in Part VI (Arbitration) of the MLI. The text of the CAA is shown in Annex B.

NOTE

A Protocol which was signed on 4 February 2010 entered into force on 14 July 2010 and its provisions shall take effect from 14 July 2010. The text of this Protocol signed on 4 February 2010 is shown in Annex C.

NOTE

There were two earlier Conventions signed between the Government of the Republic of Singapore and the Government of Japan for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

The second Convention was signed on 29 January 1971 and amended by the Protocol and Exchange of Notes both signed on 14 January 1981. The text of this Convention is shown in Annex D and the text of the Protocol and the Exchange of Notes amending this Convention are both shown in Annex E.

The text of the first Convention which was signed on 11 April 1961 is shown in Annex F.

The Government of the Republic of Singapore and the Government of Japan,

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**

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

**ARTICLE 2**

1. This Agreement shall apply to the following taxes:

(a) in Japan:

(i) the income tax;

(ii) the corporation tax; and

(iii) the local inhabitant taxes

(hereinafter referred to as "Japanese tax");

(b) in Singapore:

the income tax

(hereinafter referred to as "Singapore tax").

2. This Agreement shall also apply to any identical or substantially similar taxes, whether national or local, which are imposed after the date of signature of this Agreement in addition to, or in place of, those referred to in paragraph 1. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws within a reasonable period of time after such changes.

**ARTICLE 3**

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

(a) the term "Japan", when used in a geographical sense, means all the territory of Japan, including its territorial sea, in which the laws relating to Japanese tax are in force, and all the area beyond its territorial sea, including the sea-bed and subsoil thereof, over which Japan has jurisdiction in accordance with international law and in which the laws relating to Japanese tax are in force;

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

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

(d) the term "tax" means Singapore tax or Japanese tax, as the context requires;

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

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

(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 "nationals" means all individuals possessing the nationality of either Contracting State and all juridical persons created or organized under the laws of that Contracting State and all organizations without juridical personality treated for the purposes of tax of that Contracting State as juridical persons created or organized under the laws of that Contracting State;

(i) 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; and

(j) the term "competent authority" means:

(i) in the case of Japan, the Minister of Finance or his authorized representative;

(ii) in the case of Singapore, the Minister for Finance or his authorized representative.

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

**ARTICLE 4**

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that Contracting State, is liable to tax therein by reason of his domicile, residence, place of head or main office, place of control and management, or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then this case shall be determined in accordance with the following rules:

(a) he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);

(b) if the Contracting State in which he has his centre of vital interests cannot be determined, 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, he shall be deemed to be a resident of the Contracting State of which he is a national;

(d) if he is a national of both Contracting States or 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 the competent authorities of the Contracting States shall determine by mutual agreement the Contracting State of which that person shall be deemed to be a resident for the purposes of this Agreement.

**ARTICLE 5**

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

2. The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop; and

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

3. A building site, a construction or installation project or supervisory activities in connection therewith, constitute a permanent establishment only if such site, project or activities last more than six months.

4. Notwithstanding the provisions of the preceding paragraphs 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; and

(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 the provisions of paragraph 6 apply - 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 Contracting 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 Contracting 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 Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

**ARTICLE 6**

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 Contracting State.

2. The term "immovable property" shall have the meaning which it has under the laws 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 immovable property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

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

**ARTICLE 7**

1. The profits of an enterprise of a Contracting State shall be taxable only in that Contracting 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 that other Contracting 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 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. For the purposes of the provisions of the preceding paragraphs of this Article, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

6. Where 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**

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

2. In respect of the operation of ships or aircraft in international traffic carried on by an enterprise of a Contracting State, that enterprise, if an enterprise of Singapore, shall be exempt from the enterprise tax in Japan, and, if an enterprise of Japan, shall be exempt from any tax similar to the enterprise tax in Japan which may hereafter be imposed in Singapore.

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

**ARTICLE 9**

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 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 where the competent authorities of the Contracting States agree, upon consultation, that all or part of the profits so included are profits which would have accrued to the enterprise of the first-mentioned 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 agreed profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement.

**ARTICLE 10**

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 Contracting 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 Contracting State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

(a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which owns at least 25 per cent of the voting shares of the company paying the dividends during the period of six months immediately before the end of the accounting period for which the distribution of profits takes place;

(b) 15 per cent of the gross amount of the dividends in all other cases.

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

3. The term "dividends" as used in this Article means income from shares 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 taxation laws of the Contracting State of which the company making the distribution is a resident.

4. Notwithstanding the provisions of paragraph 2 of this Article, as long as Singapore does not impose a tax on dividends in addition to the tax chargeable on the profits or income of a company, dividends paid by a company which is a resident of Singapore to a resident of Japan shall be exempt from any tax in Singapore which may be chargeable on dividends in addition to the tax chargeable on the profits or income of the company.

5. 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 Contracting 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.

6. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other Contracting 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 Contracting 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 Contracting 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 that other Contracting State.

**ARTICLE 11**

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

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and derived by the Government of the other Contracting State, a local authority thereof, the central bank of that other Contracting State or any institution wholly owned by that Government, or by any resident of the other Contracting State with respect to debt-claims guaranteed, insured or indirectly financed by the Government of that other Contracting State, a local authority thereof, the central bank of that other Contracting State or any institution wholly owned by that Government shall be exempt from tax in the first-mentioned Contracting State.

4. For the purposes of paragraph 3 of this Article, the terms "the central bank" and "institution wholly owned by that Government" mean:

(a) in the case of Japan:

(i) the Bank of Japan;

(ii) the Export-Import Bank of Japan; and

(iii) such other institution the capital of which is wholly owned by the Government of Japan as may be agreed upon from time to time between the Governments of the two Contracting States;

(b) in the case of Singapore:

(i) the Board of Commissioners of Currency;

(ii) the Monetary Authority of Singapore;

(iii) the Government of Singapore Investment Corporation; and

(iv) such other institution the capital of which is wholly owned by the Government of Singapore as may be agreed upon from time to time between the Governments of the two Contracting States.

5. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures.

6. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other Contracting State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively

connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

7. Interest shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a local authority thereof or a resident of that Contracting State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment 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 Contracting State in which the permanent establishment or fixed base is situated.

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

**ARTICLE 12**

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

2. However, such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that Contracting State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

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 software, 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, as well as receipts from a bare boat charter of ships or aircraft (other than those dealt with in Article 8).

4. Royalties shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a local authority thereof or a resident of that Contracting State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

5. The provisions of paragraphs 1, 2 and 4 of this Article shall likewise apply to proceeds arising from the alienation of any copyright of literary, artistic or scientific work including software, cinematograph films and films or tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, or secret formula or process.

6. The provisions of paragraphs 1, 2 and 5 shall not apply if the beneficial owner of the royalties or proceeds, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties or proceeds arise, through a permanent establishment situated therein, or performs in that other Contracting State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties or proceeds 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, 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 or proceeds, 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**

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 Contracting State.

2. Gains from the alienation of any property, other than immovable 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 any property, other than immovable 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 together with the whole enterprise) or of such a fixed base, may be taxed in that other Contracting State. However, this provision shall not apply to the gains derived from such alienation of property to which the provisions of paragraph 5 of Article 12 apply.

3. Gains derived by a resident of a Contracting State from the alienation of ships or aircraft operated in international traffic and any property, other than immovable property, pertaining to the operation of such ships or aircraft shall be taxable only in that Contracting State.

4. Unless the provisions of paragraph 2 are applicable:

(a) gains from the alienation of shares of a company not traded regularly at a recognized stock exchange, or of an interest in a partnership, a trust or an estate, the property of which consists principally of immovable property situated in a Contracting State, may be taxed in that Contracting State.

(b) gains derived by a resident of a Contracting State from the alienation of shares of a company being a resident of the other Contracting State may be taxed in that other Contracting State, if:

(i) shares held or owned by the alienator (together with such shares held or owned by any other related persons as may be aggregated therewith) amount to at least 25 per cent of the entire share capital of such company at any time during the taxable year or the basis period for the year of assessment; and

(ii) the total of the shares alienated by the alienator and such related persons during that taxable year or the basis period for that year of assessment amounts to at least 5 per cent of the entire share capital of such company.

5. Gains from the alienation of any property other than that referred to in the preceding paragraphs of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

**ARTICLE 14**

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that Contracting State unless:

(a) he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; or

(b) he is present in that other Contracting State for a period or periods exceeding in the aggregate 183 days in any consecutive twelve-month period.

If he has such a fixed base or remains in that other Contracting State for the aforesaid period or periods, the income may be taxed in that other Contracting State but only so much of it as is attributable to that fixed base or is derived in that other Contracting State during the aforesaid period or periods.

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**

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that Contracting 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 Contracting 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 Contracting State, if:

(a) the recipient is present in that other Contracting State for a period or periods not exceeding in the aggregate 183 days in any consecutive twelve-month period; and

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

(c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in that other Contracting State.

3. Notwithstanding the provisions of the preceding paragraphs of this Article, remuneration 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 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 Contracting State.

**ARTICLE 17**

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

Such income shall, however, be exempt from tax in that other Contracting State if such activities are exercised by an individual, being a resident of the first-mentioned Contracting State, pursuant to a special programme for cultural exchange agreed upon between the Governments of the two Contracting States.

2. Where income in respect of personal activities exercised in a Contracting State by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person who is a resident of the other Contracting State, 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.

Such income shall, however, be exempt from tax in that Contracting State if such income is derived from the activities exercised by an individual, being a resident of the other Contracting State, pursuant to a special programme for cultural exchange agreed upon between the Governments of the two Contracting States and accrues to another person who is a resident of that other Contracting State.

**ARTICLE 18**

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 and annuities paid to such a resident shall be taxable only in that Contracting State.

**ARTICLE 19**

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

(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other Contracting State and the individual is a resident of that other Contracting State who:

(i) is a national of that other Contracting State, or

(ii) did not become a resident of that other Contracting State solely for the purpose of rendering the services.

2. (a) Any pension paid by, or out of funds to which contributions are made by, a Contracting State or a local authority thereof to an individual in respect of services rendered to that Contracting State or local authority thereof shall be taxable only in that Contracting 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 other Contracting State.

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

**ARTICLE 20**

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 Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall be exempt from tax of the first-mentioned Contracting State, provided that such payments are made to him from outside that first-mentioned Contracting State.

**ARTICLE 21**

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 Contracting 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 Contracting 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 be taxed in that other Contracting State.

**ARTICLE 22**

1. Where this Agreement provides (with or without other conditions) that income from sources in Japan is exempt from tax or taxed at a reduced rate in Japan 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 Japan shall apply only to so much of the income as is remitted to or received in Singapore. However, this limitation does not apply to income derived by the Government of Singapore, the Board of Commissioners of Currency, the Monetary Authority of Singapore, the Government of Singapore Investment Corporation or any institution wholly owned by the Government of Singapore referred to in sub-paragraph (b)(iv) of paragraph 4 of Article 11.

2. Where income arises in a Contracting State to a person, other than an individual, who is a resident of the other Contracting State, and this Agreement provides (with or without other conditions) exemption or reduction of tax in the first-mentioned Contracting State, then the exemption or reduction of tax to be allowed under this Agreement shall not apply to such income if the said person is exempt from tax under the laws in force in that other Contracting State and is not conducting actual activities through a physical existence in that other Contracting State.

**ARTICLE 23**

1. Subject to the laws of Japan regarding the allowance as a credit against Japanese tax of tax payable in any country other than Japan:

(a) Where a resident of Japan derives income from Singapore which may be taxed in Singapore in accordance with the provisions of this Agreement, the amount of Singapore tax payable in respect of that income shall be allowed as a credit against the Japanese tax imposed on that resident. The amount of credit, however, shall not exceed that part of the Japanese tax which is appropriate to that income.

(b) Where the income derived from Singapore is a dividend paid by a company which is a resident of Singapore to a company which is a resident of Japan and which owns not less than 25 per cent either of the voting shares of the company paying the dividend, or of the total shares issued by that company, the credit shall take into account the Singapore tax payable by the company paying the dividend in respect of its income.

2. In Singapore, double taxation shall be eliminated as follows:

Where a resident of Singapore derives income from Japan which, in accordance with the provisions of this Agreement, may be taxed in Japan, Singapore shall, subject to its laws regarding the allowance as a credit against Singapore tax of tax payable in any country other than Singapore, allow the Japanese 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 Japan to a resident of Singapore which is a company owning directly or indirectly not less than 25 per cent of the share capital of the first-mentioned company, the credit shall take into account the Japanese tax paid by that company on the portion of its profits out of which the dividend is paid.

**ARTICLE 24**

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 Contracting State in the same circumstances 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. However, this provision shall not be construed as obliging Singapore to grant to nationals of Japan those personal allowances, reliefs and reductions for taxation purposes which are available only to nationals of Singapore by law on the date of signature of this Agreement or which have been modified (including minor additions) thereafter only in minor respects so as not to affect their general character. The Governments of the Contracting States may agree to include any other personal allowances, reliefs or reductions for taxation purposes which may be introduced in the future in Singapore and which the two Governments consider as being consistent with the principles contained in this paragraph.

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

This provision shall not 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 8 of Article 11, or paragraph 7 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 Contracting State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned 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 the first-mentioned Contracting State are or may be subjected.

**ARTICLE 25**

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 laws of those Contracting States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this 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 provisions of this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic laws of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of 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 reaching an agreement in the sense of the preceding paragraphs of this Article.

**ARTICLE 26**

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 this Agreement insofar as the taxation thereunder is not contrary to the provisions of this Agreement. The exchange of information is not restricted by Article 1. 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 Contracting State and shall be disclosed only to persons or authorities, including courts and administrative bodies, involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by this 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 27**

1. Each of the Contracting States shall endeavour to collect such taxes imposed by the other Contracting State as will ensure that any exemption or reduced rate of tax granted under this Agreement by that other Contracting State shall not be enjoyed by persons not entitled to such benefits. The Contracting State making such collections shall be responsible to the other Contracting State for the sums thus collected.

2. In no case shall the provisions of paragraph 1 be construed so as to impose upon either of the Contracting States the obligation to carry out administrative measures at variance with the laws and administrative practice of the Contracting State endeavouring to collect the tax or which would be contrary to the public policy (ordre public) of that Contracting State.

**ARTICLE 28**

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

**ARTICLE 29**

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

2. This Agreement shall enter into force on the thirtieth day after the date of the exchange of instruments of ratification and shall have effect:

(a) in Japan:

as regards income for any taxable year beginning on or after the first day of January of the calendar year next following that in which this Agreement enters into force;

(b) in Singapore:

in respect of Singapore tax for the year of assessment beginning on or after the first day of January in the second calendar year following the year in which this Agreement enters into force.

3. The Convention between the Government of the Republic of Singapore and the Government of Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed at Singapore on 29 January, 1971, as amended by the Protocol amending the Convention between the Government of the Republic of Singapore and the Government of Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at Singapore on 14 January, 1981, shall terminate and cease to have effect in respect of income or tax to which this Agreement applies under the provisions of paragraph 2.

**ARTICLE 30**

This Agreement shall continue in effect indefinitely but either Contracting State may, on or before the thirtieth day of June of any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through the diplomatic channel, written notice of termination and, in such event, this Agreement shall cease to have effect:

(a) in Japan:

as regards income for any taxable year beginning on or after the first day of January of the calendar year next following that in which the notice of termination is given;

(b) in Singapore:

in respect of Singapore tax for the year of assessment beginning on or after the first day of January in the second calendar year following the year in which the notice of termination is given.

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

DONE in duplicate at Singapore on 9 April, 1994, in the English language.

| **For the Government of the Republic of Singapore:** | **For the Government of Japan:** |
|---|---|
| **KOH YONG GUAN** | **H.E. T. KAWAMURA** |

**PROTOCOL (1994)**

At the signing of the Agreement between the Government of the Republic of Singapore and the Government of Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (hereinafter referred to as "the Agreement"), the undersigned have agreed upon the following transitional arrangements which shall form an integral part of the Agreement.

1. Notwithstanding the provisions of paragraph 2 of Article 11 of the Agreement, interest arising in Singapore and paid to a resident of Japan on debentures issued by, or on loans (including loans in the form of deferred payments) made to, an enterprise of Singapore engaged in an industrial undertaking shall be exempt from Singapore tax.

2. For the purposes of paragraph 1 of this Protocol, the term "industrial undertaking" means an undertaking which is approved by the competent authority of Singapore in which the undertaking is situated, and falls under any of the classes mentioned below:

(a) manufacturing, assembling and processing;

(b) construction and civil engineering;

(c) ship-building, ship-breaking and ship-docking;

(d) electricity, hydraulic power, gas and water supply;

(e) mining, including the working of a quarry or any other source of mineral deposits;

(f) plantation, agriculture, forestry and fishery; and

(g) any other undertaking which may be declared to be an "industrial undertaking" for the purposes of paragraph 1 of this Protocol.

3. For the purposes of the credit referred to in paragraph 1 of Article 23 of the Agreement, Singapore tax shall always be considered as having been paid at the rate of 15 per cent of the gross amount in the case of interest to which the provisions of paragraph 1 of this Protocol apply, and of royalties or proceeds to which the provisions of paragraphs 2 or 5 of Article 12 of the Agreement apply.

4. For the purposes of the credit referred to in paragraph 1 of Article 23 of the Agreement, there shall be deemed to have been paid by the taxpayer the amount which would have been paid as Singapore tax under the laws of Singapore if the Singapore tax had not been reduced or exempted in accordance with the special incentive measures designed to promote economic development in Singapore, effective on the date of signature of the Agreement, or which may be introduced thereafter in the Singapore taxation laws in modification of, or in addition to, the existing measures, provided that an agreement is made between the two Governments in respect of the scope of the benefit accorded to the taxpayer by the said measures.

5. The provisions of the preceding paragraphs shall cease to have effect for any taxable year beginning after 31 December, 2000.

IN WITNESS WHEREOF the undersigned, duly authorized thereto by their respective Governments, have signed this Protocol.

DONE in duplicate at Singapore on 9 April, 1994, in the English language.

| For the Government of the Republic of Singapore: | For the Government of Japan: |
| --- | --- |
| **KOH YONG GUAN** | **H.E. T. KAWAMURA** |

**EXCHANGE OF NOTES (1994)**

Singapore, 9 April, 1994

Excellency,

I have the honour to refer to the Agreement between the Government of the Republic of Singapore and the Government of Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income which was signed today (hereinafter referred to as "the Agreement"), and to confirm on behalf of the Government of the Republic of Singapore the following understanding reached between the Government of the Republic of Singapore and the Government of Japan:

1. With reference to paragraph 3 of Article 7 of the Agreement, it is understood that in determining the profits of a permanent establishment situated in a Contracting State, items of expenses shall not be allowed as deductions if such items of expenses are not deductible for an enterprise of the Contracting State under the laws of that Contracting State.

2. With reference to Article 8 of the Agreement, it is understood that:

(a) interest on funds temporarily deposited in connection with the operation of ships or aircraft in international traffic shall be regarded as profits from the operation of such ships or aircraft and the provisions of Article 11 of the Agreement shall not apply in relation to such interest; and

(b) profits from the operation of ships or aircraft in international traffic shall, if such profits are incidental to profits to which the provisions of paragraph 1 of Article 8 of the Agreement apply, include:

(i) profits derived from the rental on a full basis or on a bare boat basis of ships or aircraft; and

(ii) profits derived from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used in international traffic.

3. With reference to sub-paragraph (b)(iii) of paragraph 4 of Article 11 of the Agreement, it is understood that the Government of Singapore Investment Corporation shall be regarded as an "institution wholly owned by that Government" referred to in the said paragraph so long as its function is exclusively the management of Singapore's foreign reserves.

4. With reference to Article 19 of the Agreement, it is understood that the provisions of the said Article shall also apply to remuneration and pension paid by the Government of Singapore through any institution which exclusively conducts activities of a governmental nature and is wholly owned by the Government of Singapore.

5. With reference to Article 22 of the Agreement, it is understood that the competent authority of Japan may require, after having consulted the competent authority of Singapore, from a person who is applying for the exemption or reduction of tax provided for in the Agreement a certification issued by the competent authority of Singapore that such person is a resident of Singapore pursuant to the provisions of Article 4 of the Agreement.

6. With reference to paragraph 3 of Article 24 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.

7. With reference to paragraph 1 of Article 26 of the Agreement, it is understood that the competent authority of Singapore is not obliged to provide information it possesses which relates neither to a resident of Japan nor to a resident of Singapore to the competent authority of Japan so long as the laws of Singapore prohibit the competent authority of Singapore from providing such information.

I have further the honour to request Your Excellency to be good enough to confirm the foregoing understanding on behalf of the Government of Japan.

I avail myself of this opportunity to extend to Your Excellency the assurance of my highest consideration.

KOH YONG GUAN

His Excellency Tomoya Kawamura
Ambassador Extraordinary and Plenipotentiary
of Japan to the Republic of Singapore

Singapore, 9 April, 1994

Sir,

I have the honour to acknowledge the receipt of your Note of today's date which reads as follows:

"I have the honour to refer to the Agreement between the Government of the Republic of Singapore and the Government of Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income which was signed today (hereinafter referred to as "the Agreement"), and to confirm on behalf of the Government of the Republic of Singapore the following understanding reached between the Government of the Republic of Singapore and the Government of Japan:

1. With reference to paragraph 3 of Article 7 of the Agreement, it is understood that in determining the profits of a permanent establishment situated in a Contracting State, items of expenses shall not be allowed as deductions if such items of expenses are not deductible for an enterprise of the Contracting State under the laws of that Contracting State.

2. With reference to Article 8 of the Agreement, it is understood that:

(a) interest on funds temporarily deposited in connection with the operation of ships or aircraft in international traffic shall be regarded as profits from the operation of such ships or aircraft and the provisions of Article 11 of the Agreement shall not apply in relation to such interest; and

(b) profits from the operation of ships or aircraft in international traffic shall, if such profits are incidental to profits to which the provisions of paragraph 1 of Article 8 of the Agreement apply, include:

(i) profits derived from the rental on a full basis or on a bare boat basis of ships or aircraft; and

(ii) profits derived from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used in international traffic.

3. With reference to sub-paragraph (b)(iii) of paragraph 4 of Article 11 of the Agreement, it is understood that the Government of Singapore Investment Corporation shall be regarded as an "institution wholly owned by that Government" referred to in the said paragraph so long as its function is exclusively the management of Singapore's foreign reserves.

4. With reference to Article 19 of the Agreement, it is understood that the provisions of the said Article shall also apply to remuneration and pension paid by the Government of Singapore through any institution which exclusively conducts activities of a governmental nature and is wholly owned by the Government of Singapore.

5. With reference to Article 22 of the Agreement, it is understood that the competent authority of Japan may require, after having consulted the competent

authority of Singapore, from a person who is applying for the exemption or reduction of tax provided for in the Agreement a certification issued by the competent authority of Singapore that such person is a resident of Singapore pursuant to the provisions of Article 4 of the Agreement.

6. With reference to paragraph 3 of Article 24 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.

7. With reference to paragraph 1 of Article 26 of the Agreement, it is understood that the competent authority of Singapore is not obliged to provide information it possesses which relates neither to a resident of Japan nor to a resident of Singapore to the competent authority of Japan so long as the laws of Singapore prohibit the competent authority of Singapore from providing such information.

I have further the honour to request Your Excellency to be good enough to confirm the foregoing understanding on behalf of the Government of Japan."

I have further the honour to confirm the understanding contained in your Note, on behalf of the Government of Japan.

I avail myself of this opportunity, Sir, to extend to you the assurance of my highest consideration.

TOMOYA KAWAMURA

Mr. Koh Yong Guan
Commissioner of Inland Revenue
of the Republic of Singapore

Singapore, 9 April, 1994

Excellency,

I have the honour to refer to paragraph 4 of the Protocol which forms an integral part of the Agreement between the Government of the Republic of Singapore and the Government of Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income which was signed today and to confirm, on behalf of the Government of the Republic of Singapore, the following understanding reached between the Government of the Republic of Singapore and the Government of Japan;

The measures set forth in the following sections of the Economic Expansion Incentives (Relief from Income Tax) Act (Chapter 86, Revised Edition 1992) are "the special incentive measures designed to promote economic development in Singapore, effective on the date of signature of this Agreement" referred to in the said paragraph:

(i) Sections 13 and 14 - relating to exemption from income tax of the income of a pioneer enterprise and the dividends attributable to the exempt income of such an enterprise;

(ii) Sections 24 and 25 - relating to exemption from income tax of the increase in the expansion income of an expanding enterprise and the dividends attributable to the exempt income of such enterprise;

(iii) Sections 39 and 40 - relating to exemption from income tax of the income of an export enterprise and the dividends attributable to the exempt income of such an enterprise;

(iv) Sections 51 and 53 - only to the extent that they are relevant to Section 46(1)(a) - relating to exemption from income tax of the increase in the export income of an international trading company and the dividends attributable to the exempt income of such a company;

(v) Sections 71 and 72 - relating to exemption from income tax of the income of a company which has been granted an investment allowance under Section 67 and the dividends attributable to the exempt income of such a company;

(vi) Sections 81 and 82 - relating to exemption from income tax of the increase in the export income of a warehousing company or a servicing company and the dividends attributable to the exempt income of such a company.

I have further the honour to request Your Excellency to be good enough to confirm the foregoing understanding on behalf of the Government of Japan.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

KOH YONG GUAN

His Excellency Mr Tomoya Kawamura
Ambassador Extraordinary and Plenipotentiary
of Japan to the Republic of Singapore

Singapore, 9 April, 1994

Sir,

I have the honour to acknowledge the receipt of your Note of today's date which reads as follows:

> “I have the honour to refer to paragraph 4 of the Protocol which forms an integral part of the Agreement between the Government of the Republic of Singapore and the Government of Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income which was signed today and to confirm, on behalf of the Government of the Republic of Singapore, the following understanding reached between the Government of the Republic of Singapore and the Government of Japan;
>
> The measures set forth in the following sections of the Economic Expansion Incentives (Relief from Income Tax) Act (Chapter 86, Revised Edition 1992) are "the special incentive measures designed to promote economic development in Singapore, effective on the date of signature of this Agreement" referred to in the said paragraph:
>
> (i) Sections 13 and 14 - relating to exemption from income tax of the income of a pioneer enterprise and the dividends attributable to the exempt income of such an enterprise;
>
> (ii) Sections 24 and 25 - relating to exemption from income tax of the increase in the expansion income of an expanding enterprise and the dividends attributable to the exempt income of such an enterprise;
>
> (iii) Sections 39 and 40 - relating to exemption from income tax of the income of an export enterprise and the dividends attributable to the exempt income of such an enterprise;
>
> (iv) Sections 51 and 53 - only to the extent that they are relevant to Section 46(1)(a) - relating to exemption from income tax of the increase in the export income of an international trading company and the dividends attributable to the exempt income of such a company;
>
> (v) Sections 71 and 72 - relating to exemption from income tax of the income of a company which has been granted an investment allowance under Section 67 and the dividends attributable to the exempt income of such a company;
>
> (vi) Sections 81 and 82 - relating to exemption from income tax of the increase in the export income of a warehousing company or a servicing company and the dividends attributable to the exempt income of such a company.
>
> I have further the honour to request Your Excellency to be good enough to confirm the foregoing understanding on behalf of the Government of Japan.”

I have further the honour to confirm the understanding contained in your Note, on behalf of the Government of Japan.

I avail myself of this opportunity, Sir, to renew to you the assurance of my highest consideration.

TOMOYA KAWAMURA

Mr. Koh Yong Guan
Commissioner of Inland Revenue
of the Republic of Singapore

# ANNEX A

## Effects of the MLI on this Agreement

1. Deletion and replacement of the Preamble

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

"The Government of the Republic of Singapore and the Government of the Republic of Japan,

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

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

Have agreed as follows:".

2. Amendment of Article 9

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

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

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

The following articles shall be inserted immediately after Article 25. However, the articles shall not apply to this Agreement if a Contracting State raises an objection under Article 28(2)(b) of the MLI to the reservations that had been made by the other Contracting State under Article 28(2)(a) of the MLI. Such an objection may be raised by:

(a) Singapore, by 25 September 2019; or
(b) Japan, by 20 December 2019.

“**ARTICLE 25A**

1. Where:

(a) under Article 25, a person has presented a case to the competent authority of a Contracting State on the basis that the actions of one or both of the Contracting States have resulted for that person in taxation not in accordance with the provisions of the Agreement; and

(b) the competent authorities are unable to reach an agreement to resolve that case pursuant to Article 25 within a period of two years beginning on the start date referred to in paragraph 8 or 9, as the case may be (unless, prior to the expiration of that period the competent authorities of the Contracting States have agreed to a different time period with respect to that case and have notified the person who presented the case of such agreement),

any unresolved issues arising from the case shall, if the person so requests in writing, be submitted to arbitration in the manner described in this Article and Articles 25B to 25G, according to any rules or procedures agreed upon by the competent authorities of the Contracting States pursuant to the provisions of paragraph 10.

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

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

4. (a) The arbitration decision with respect to the issues submitted to arbitration shall be implemented through the mutual agreement concerning the case referred to in paragraph 1. The arbitration decision shall be final.

(b) The arbitration decision shall be binding on both Contracting States except in the following cases:

(i) if a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision. In such a case, the case shall not be eligible for any further consideration by the competent authorities. The mutual agreement that implements the arbitration decision on the case shall be considered not to be accepted by a person directly affected by the case if any person directly affected by the case does not, within 60 days after the date on which notification of the mutual agreement is sent to the person, withdraw all issues resolved in the mutual agreement implementing the arbitration

decision from consideration by any court or administrative tribunal or otherwise terminate any pending court or administrative proceedings with respect to such issues in a manner consistent with that mutual agreement.

(ii) if a final decision of the courts of one of the Contracting States holds that the arbitration decision is invalid. In such a case, the request for arbitration under paragraph 1 shall be considered not to have been made, and the arbitration process shall be considered not to have taken place (except for the purposes of Articles 25C and 25F). In such a case, a new request for arbitration may be made unless the competent authorities agree that such a new request should not be permitted.

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

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

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

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

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

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

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

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

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

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

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

(a) the date on which both competent authorities have notified the person who presented the case pursuant to sub-paragraph (a) of paragraph 6; and

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

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

(a) the latest date on which the competent authorities that requested additional information have notified the person who presented the case and the other competent authority pursuant to sub-paragraph (a) of paragraph 7; and
(b) the date that is three calendar months after both competent authorities have received all information requested by either competent authority from the person who presented the case.

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

10. The competent authorities of the Contracting States shall by mutual agreement (pursuant to Article 25) settle the mode of application of the provisions contained in this Article and Articles 25B to 25G, including the minimum information necessary for each competent authority to undertake substantive consideration of the case. Such an agreement shall be concluded before the date on which unresolved issues in a case are first eligible to be submitted to arbitration and may be modified from time to time thereafter.

11. Notwithstanding the preceding paragraphs of this Article:

(a) any unresolved issue arising from a mutual agreement procedure case otherwise within the scope of the arbitration process provided for by this Agreement shall not be submitted to arbitration, if a decision on this issue has already been rendered by a court or administrative tribunal of either Contracting State;
(b) if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the Contracting States, a decision concerning the issue is rendered by a court or administrative tribunal of one of the Contracting States, the arbitration process shall terminate.

12. The provisions of this Article and Articles 25B to 25G shall not apply —

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

(c) to any case involving the application of paragraph 3 read with paragraph 1 of Article 4 of the Agreement.

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

(a) shall have effect with respect to cases presented to the competent authority of a Contracting State under Article 25 on or after 1 April 2019; and
(b) shall apply to a case presented to the competent authority of a Contracting State under Article 25 prior to 1 April 2019 only to the extent that the competent authorities of both Contracting States agree that it will apply to that specific case.

**ARTICLE 25B**

1. Except to the extent that the competent authorities of the Contracting States mutually agree on different rules, paragraphs 2 through 4 shall apply for the purposes of Articles 25A to 25G.

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

(a) The arbitration panel shall consist of three individual members with expertise or experience in international tax matters.
(b) Each competent authority shall appoint one panel member within 60 days of the date of the request for arbitration under paragraph 1 of Article 25A. The two panel members so appointed shall, within 60 days of the latter of their appointments, appoint a third member who shall serve as Chair of the arbitration panel. The Chair shall not be a national or resident of either Contracting State.
(c) Each member appointed to the arbitration panel must be impartial and independent of the competent authorities, tax administrations, and ministries of finance of the Contracting States and of all persons directly affected by the case (as well as their advisors) at the time of accepting an appointment, maintain his or her impartiality and independence throughout the proceedings, and avoid any conduct for a reasonable period of time thereafter which may damage the appearance of impartiality and independence of the arbitrators with respect to the proceedings.

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

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

**ARTICLE 25C**

1. Solely for the purposes of the application of Articles 25A to 25G and 26 and of the provisions of the domestic laws of the Contracting States related to the exchange of information, confidentiality, and administrative assistance, members of the arbitration panel and a maximum of three staff per member (and prospective arbitrators solely to the extent necessary to verify their ability to fulfil the requirements of arbitrators) shall be considered to be persons or authorities to whom information may be disclosed. Information received by the arbitration panel or prospective arbitrators and information that the competent authorities receive from the arbitration panel shall be considered information that is exchanged under Article 26.

2. The competent authorities of the Contracting States shall ensure that members of the arbitration panel and their staff agree in writing, prior to their acting in an arbitration proceeding, to treat any information relating to the arbitration proceeding consistently with the confidentiality and nondisclosure obligations described in Article 26 and under the applicable laws of the Contracting States.

**ARTICLE 25D**

For the purposes of Articles 25 and 25A to 25G, the mutual agreement procedure, as well as the arbitration proceeding, with respect to a case shall terminate if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the Contracting States:

(a) the competent authorities of the Contracting States reach a mutual agreement to resolve the case; or
(b) the person who presented the case withdraws the request for arbitration or the request for a mutual agreement procedure.

**ARTICLE 25E**

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 25A 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 25, as well as the arbitration proceeding under Articles 25A to 25G, with respect to the case shall terminate if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the Contracting States, a person that presented the case or one of that person's advisors materially breaches that agreement.

**ARTICLE 25F**

In an arbitration proceeding under Articles 25A to 25G, the fees and expenses of the members of the arbitration panel, as well as any costs incurred in connection with the arbitration proceedings by the Contracting States, shall be borne by the Contracting States in a manner to be settled by mutual agreement between

the competent authorities of the Contracting States. In the absence of such agreement, each Contracting State shall bear its own expenses and those of its appointed panel member. The cost of the chair of the arbitration panel and other expenses associated with the conduct of the arbitration proceedings shall be borne by the Contracting States in equal shares.

**ARTICLE 25G**

1. Any unresolved issue arising from a mutual agreement procedure case otherwise within the scope of the arbitration process provided for in this Article and Articles 25A to 25F shall not be submitted to arbitration if the issue falls within the scope of a case with respect to which an arbitration panel or similar body has previously been set up in accordance with a bilateral or multilateral convention that provides for mandatory binding arbitration of unresolved issues arising from a mutual agreement procedure case.

2. Nothing in this Article and Articles 25A to 25F shall affect the fulfilment of wider obligations with respect to the arbitration of unresolved issues arising in the context of a mutual agreement procedure resulting from other conventions to which the Contracting States are or will become parties.".

4. New Article 28A

The following new Article 28A is inserted immediately after Article 28:

"**ARTICLE 28A**

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.".

5. Entry into effect of the MLI

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

(a) for paragraph 3 of this Annex on the arbitration provisions, with respect to any tax paid, deemed paid or liable to be paid, before, on or after 1 April 2019;
(b) for all other paragraphs in this Annex:
    (i) with respect to taxes withheld at source, in respect of amounts paid, deemed paid or liable to be paid (whichever is the earliest), on or after 1 January 2020; and
    (ii) with respect to taxes other than those withheld at source, where the income is derived or received in a basis period beginning on or after 1 October 2019.

# ANNEX B

## Implementing Arrangement between the Competent Authorities of Japan and of the Republic of Singapore regarding Part VI of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting

The competent authorities of Japan and of the Republic of Singapore (hereinafter referred to as the "Contracting States") have established this mode of application of the arbitration proceedings provided for in Part VI of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (hereinafter referred to as "the Multilateral Convention").

This Arrangement is established pursuant to Article 25 of the Agreement between the Government of Japan and the Government of the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at Singapore on 9 April 1994, as amended by the Protocol signed at Singapore on 4 February 2010 (hereinafter collectively referred to as "the Agreement") and paragraph 10 of Article 19 of the Multilateral Convention.

This Arrangement is based on the reservations and notifications submitted to the Depositary of the Multilateral Convention by Japan on 26 September 2018 and by the Republic of Singapore on 21 December 2018.

The competent authorities will follow the procedures in this Arrangement in good faith.

### Section 1. Request for submission of case to arbitration

1. A request that unresolved issues arising from a case presented under paragraph 1 of Article 25 of the Agreement be submitted to arbitration pursuant to paragraph 1 of Article 19 of the Multilateral Convention (hereinafter referred to as a "request for arbitration") will be made in writing and sent to the competent authority of the Contracting State of residence of the person who presented the case (or, if the case comes under paragraph 1 of Article 24 of the Agreement, to the competent authority of the Contracting State of which the person who presented the case is a national) through:

a) (in the case of Japan): Office of Mutual Agreement Procedures, National Tax Agency; or

b) (in the case of the Republic of Singapore): Inland Revenue Authority of Singapore (hereinafter referred to as "IRAS").

2. The request will contain sufficient information to identify the case. The request will also be accompanied by a written statement by each of the persons who either made the request or is directly affected by the case that no decision on the same issues has already been rendered by a court or administrative tribunal of either Contracting State.

3. Within 10 days after the receipt of the request, the competent authority which received it without any indication that it was also sent to the other competent authority will send a copy of that request and the accompanying statements to the other competent authority.

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

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

a) for Japan, the information set out in the Commissioner's Directive on the Mutual Agreement Procedure issued on 25 June 2001, as such directive may be amended from time to time;

b) for the Republic of Singapore, the information set out in the IRAS e-tax guides entitled "Avoidance of Double Taxation Agreements (DTAs)" and "Transfer Pricing Guidelines", as such guides may be amended from time to time; and

c) any other specific additional information requested by the competent authority within three calendar months after the receipt of the request for a mutual agreement procedure (or a copy thereof from the other competent authority).

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

2. The competent authorities will confirm to each other the start date referred to in paragraphs 8 and 9 of Article 19 of the Multilateral Convention.

## Section 3. Terms of Reference

1. Within 60 days after the request for arbitration (or a copy thereof) has been received by both competent authorities, the competent authorities will decide on the issues to be resolved by the arbitration panel and communicate them in writing to the person who made the request for arbitration. This will constitute the "Terms of Reference" for the case.

Notwithstanding the following sections, the competent authorities may also, in the Terms of Reference, provide procedural rules that are additional to, or different from, those included in these sections and deal with such other matters as are deemed appropriate.

2. If the Terms of Reference have not been communicated to the person who made the request for arbitration within the period referred to in paragraph 1, that person and each competent authority may, within 30 days after the end of that period, communicate in writing to each other a list of issues to be resolved by the arbitration. All the lists so communicated during that period will constitute the tentative Terms of Reference.

Within 30 days after all the arbitrators have been appointed as provided in section 4, the chair of the arbitration panel (hereinafter referred to as "the Chair") will communicate

to the competent authorities and the person who made the request for arbitration a revised version of the tentative Terms of Reference based on the lists so communicated.

Within 30 days after the revised version has been received by both competent authorities, they will have the possibility to decide on different Terms of Reference and to communicate them in writing to the arbitrators and the person who made the request for arbitration. If they do so within that period, these different Terms of Reference will constitute the Terms of Reference for the case.

If no different Terms of Reference have been decided on by the competent authorities and communicated in writing within that period, the revised version of the tentative Terms of Reference prepared by the arbitrators will constitute the Terms of Reference for the case.

## Section 4. Appointment of arbitrators

1. In accordance with the provisions of paragraph 1 of Article 20 of the Multilateral Convention, the competent authorities mutually decide that the following rules will govern the appointment of the members of an arbitration panel, notwithstanding the provisions of paragraphs 2 through 4 of that Article:

a) Each competent authority will appoint one panel member within 90 days after the request for arbitration (or a copy thereof from the other competent authority). The two members so appointed will, within 60 days after the latter of their appointments, appoint the third member who will serve as the Chair. The Chair will not be a national or resident of either Contracting State.

b) In the event that a competent authority fails to appoint a member of the arbitration panel within the time period specified in subparagraph a), a member will be appointed on behalf of that competent authority by the other competent authority within 30 days after the time period specified in subparagraph a).

c) If the two initial members fail to appoint the Chair within the time period specified in subparagraph a), the competent authorities will decide on the mode of appointment in order to appoint the Chair within 90 days after the latter appointment of the two members.

2. Except to the extent that the competent authorities mutually decide on different rules, the procedures provided in this section will apply with the necessary adaptations if for any reason it is necessary to replace an arbitrator after the arbitration proceedings have begun. In such circumstances, the competent authorities will also decide on necessary adaptations, as appropriate, to the deadlines provided in section 5.

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

4. The competent authorities will appoint arbitrators who have expertise or experience in international tax matters. They need not, however, have experience as either a judge or arbitrator.

Each arbitrator appointed to the arbitration panel will be impartial and independent of the competent authorities, tax administrations, and ministries of finance of the Contracting

States and of all persons directly affected by the case (as well as their advisors and any related persons) at the time of accepting an appointment, maintain his or her impartiality and independence throughout the arbitration 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 arbitration proceedings. In particular:

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

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

c) No arbitrator will accept employment in any capacity with the competent authority, tax administration or ministry of finance of either Contracting State or with any person directly affected by the case (or with their advisors or any related persons) in the period of twelve months following the date when the arbitration decision is delivered.

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

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

5. The competent authorities will decide on a list of persons who are qualified and willing to serve as the Chair.

## Section 5. Arbitration process

1. Unless the competent authorities decide to use the approach described in paragraph 8 with respect to a given case in the Terms of Reference, each competent authority will provide to the arbitration panel and to the other competent authority, within 120 days after the appointment of the Chair, any information that it considers necessary for the arbitration panel to reach its decision. That information would include a description of the facts and of the unresolved issues to be decided together with the position of the competent authority concerning these issues and the arguments supporting that position. Unless the competent authorities decide otherwise, the arbitration panel may not take into account any information (including any information provided by the person who made the request for arbitration or his or her representatives in writing under paragraph 3) that was not available to both competent authorities before both competent authorities received the request for arbitration (or a copy thereof).

2. In the event that a competent authority fails to submit the information described in paragraph 1 within the period of time provided for in that paragraph, such a failure will have no effect on the deadlines for the arbitration proceedings provided in this section.

3. The person who made the request for arbitration may, either directly or through his or her representatives, present his or her position to the arbitrators in writing to the same extent that he can do so during the mutual agreement procedure. Any written materials prepared by the person who made the request for arbitration or his or her representatives will be submitted to the arbitrators by the competent authorities. Such materials will only be presented to the arbitrators if they are provided to both competent authorities within 120 days after the communication of the Terms of Reference to the person who made the request for arbitration.

4. Within 30 days after the Chair has informed the competent authorities that a meeting of the arbitration panel would be held, the competent authorities will decide when and where the meeting will be held and will communicate that information to the arbitrators.

5. The arbitrators will decide the issues submitted to arbitration in accordance with the applicable provisions of the Agreement, as modified by the Multilateral Convention, and, subject to these provisions, of those of the domestic laws of the Contracting States. Issues of interpretation of the Agreement, as modified by the Multilateral Convention, will be decided by the arbitrators in the light of the principles of interpretation incorporated in Articles 31 to 33 of the Vienna Convention on the Law of Treaties, having regard to the Commentaries of the OECD Model Tax Convention as periodically amended, as explained in paragraphs 28 to 36.1 of the Introduction to the OECD Model Tax Convention. Issues related to the application of the arm's length principle should similarly be decided having regard to the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. The arbitrators will also consider any other sources which the competent authorities may expressly identify in the Terms of Reference.

6. Subject to the provisions of the Agreement, as modified by the Multilateral Convention, and of this Arrangement and the Terms of Reference, the arbitrators will adopt those procedural and evidentiary rules that they deem necessary to resolve the issues set out in the Terms of Reference.

7. Unless the competent authorities decide otherwise, the arbitration decision will be delivered to the competent authorities in writing within 365 days after the date of the appointment of the Chair and will indicate the sources of law relied upon and the reasoning which led to its result. The sources of law and the reasoning will not be communicated to any party other than the competent authorities, unless the competent authorities decide otherwise. The arbitration decision will be adopted by a simple majority of the arbitrators. The arbitration decision will have no precedential value.

8. a) If the competent authorities decide to use the approach described in this paragraph with respect to a given case in the Terms of Reference, each competent authority will, within 90 days after the appointment of the Chair, submit to each arbitrator and to the other competent authority a proposed resolution, not exceeding 5 pages, which addresses all unresolved issue(s) in the case (taking into account all matters in that case previously decided between the competent authorities). The proposed resolution will be limited to a disposition of specific monetary amounts (for example, of income or expense) or, where specified, the maximum rate of tax that may be charged pursuant to the provisions of the Agreement (as it may be modified by the Multilateral Convention), for each adjustment or similar issue in the case. In a case in which the competent authorities have been unable to reach a decision on an issue regarding the conditions for application of a provision of the Agreement (as it

may be modified by the Multilateral Convention) (hereinafter referred to as a "threshold question"), such as whether an individual is a resident or whether a permanent establishment exists, the competent authorities may submit alternative proposed resolutions with respect to issues the determination of which is contingent on resolution of such threshold questions.

b) Each competent authority may also submit a supporting position paper, not exceeding 30 pages excluding annexes, for consideration by the arbitrators. Any such supporting position paper will be submitted to the arbitrators and to the other competent authority within the period of time provided for in subparagraph a). Any annex to a supporting position paper will be a document that was provided by one competent authority to the other, or by the person directly affected by the case to both competent authorities, for use in the negotiation.

c) In the event that one of the competent authorities fails to submit a proposed resolution within the period of time provided for in subparagraph a), the arbitration panel will select as its decision the proposed resolution submitted by the other competent authority.

d) Each competent authority may also submit a reply submission, not exceeding 10 pages excluding annexes, with respect to the proposed resolution and supporting position paper submitted by the other competent authority. Any such reply submission will be submitted to the arbitrators and to the other competent authority within 150 days after the appointment of the Chair. Any annex to a reply submission will be a document that was provided by one competent authority to the other, or by the person directly affected by the case to both competent authorities, for use in the negotiation.

e) As far as possible, the arbitrators will use teleconferencing to communicate between themselves and with both competent authorities. If the Chair has notified the competent authorities that a face-to-face meeting of the arbitration panel would be held, the competent authorities will decide whether that meeting is necessary and, if so, when and where the meeting will be held and will communicate that information to the arbitrators within 30 days after notification from the Chair.

f) The arbitration panel will select as its decision one of the proposed resolutions for the case submitted by the competent authorities with respect to each issue and any threshold questions, and will not include a rationale or any other explanation of the decision. The arbitration decision will be adopted by a simple majority of the arbitrators. Unless the competent authorities decide otherwise, the arbitration decision will be delivered to the competent authorities in writing within 60 days after the reception by the arbitrators of the last reply submission or, if no reply submission has been submitted, within 150 days after the appointment of the Chair. The arbitration decision will have no precedential value.

## Section 6. Communication of information and confidentiality

1. The competent authorities will ensure that all persons considered to be persons or authorities to whom information may be disclosed in accordance with paragraph 1 of Article 21 of the Multilateral Convention (including members of the arbitration panel, a maximum of three staff per member and prospective arbitrators) agree in written statements sent to each competent authority, prior to acting in the arbitration proceedings, to abide by and be subject to the confidentiality and non-disclosure provisions of paragraph 2 of Article 26 of the Agreement and of the applicable domestic laws of the Contracting States.

2. Before the Chair is appointed, the competent authorities will send any correspondence concurrently to both members of the arbitration panel.

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

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

5. All communication, except with regard to administrative or logistical matters, between the arbitrators and the competent authorities will be in writing.

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

7. Except as permitted pursuant to paragraph 3 of section 5, no arbitrator will have communications regarding the issues or matters before the arbitration panel with the following persons during or subsequent to the arbitration proceedings:

a) the person who presented the case;

b) any other person whose tax liability to either Contracting State may be directly affected by a mutual agreement referred to in paragraphs 2 and 3 of Article 25 of the Agreement reached as a result of the case; or

c) their representatives or agents.

8. At the termination of the arbitration proceedings each arbitrator will immediately destroy all documents or other information received in connection with the arbitration proceedings, and then will notify both competent authorities in writing of doing so.

## Section 7. Suspension of a mutual agreement procedure and failure to provide information in a timely manner

1. Where a competent authority has suspended the mutual agreement procedure under paragraph 2 of Article 25 of the Agreement because a case with respect to one or more of the same issues is pending before court or administrative tribunal, the period provided in subparagraph b) of paragraph 1 of Article 19 of the Multilateral Convention will stop running until the case pending before the court or administrative tribunal has been suspended or withdrawn.

In such a case, the competent authority will, within 30 days after the suspension of the mutual agreement procedure has begun, notify the person who presented the case and the other competent authority of the commencement of the suspension and will also, within 30 days after the case pending before the court or administrative tribunal has been suspended or withdrawn, notify the person who presented the case and the other competent authority of the end of the suspension of the mutual agreement procedure.

2. Where a person who presented a case and a competent authority have agreed to suspend the mutual agreement procedure, the period provided in subparagraph b) of

paragraph 1 of Article 19 of the Multilateral Convention will stop running until the suspension has been lifted.

In such a case, the competent authority will, within 30 days after the suspension has begun, notify the other competent authority of the commencement of the suspension and will also, within 30 days after the suspension has been lifted, notify the other competent authority of the end of the suspension.

3. Where both competent authorities decide 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 subparagraph b) of paragraph 1 of Article 19 of the Multilateral Convention, that period will 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.

In such a case, the competent authorities will, within 30 days after the decision, notify the person who presented the case of the extension of the period.

## Section 8. Costs

1. Unless decided otherwise by the competent authorities:

   a) each competent authority will bear the costs of its appointed arbitrator and its own expenses;

   b) the costs of the Chair will be borne by the competent authorities in equal shares;

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

   d) other expenses associated with the conduct of the arbitration proceedings that both competent authorities have agreed to incur will be borne by the competent authorities in equal shares.

2. The person who made the request for arbitration will bear the costs related to his or her own participation in the arbitration proceedings (including travel costs incurred for any meeting with the competent authority and costs related to the preparation and presentation of his or her views).

3. Each competent authority will determine the remuneration of its appointed arbitrator. The mode of remuneration for the third arbitrator will be decided on by the competent authorities before the appointment of the third arbitrator, taking the remuneration of the two other arbitrators into account.

## Section 9. Failure to communicate the decision within the required period

In the event that the decision has not been communicated to the competent authorities within the period provided for in paragraph 7 or subparagraph f) of paragraph 8 of section 5, as the case may be, or within any other period decided on by the competent authorities, the fees of each arbitrator will be limited to an amount which will be bilaterally

decided. In such a case, the competent authorities may decide to appoint new arbitrators in accordance with section 4.

The date of such decision to appoint new arbitrators will, for the purposes of the subsequent application of section 4, be deemed to be the date when the request for arbitration has been received by both competent authorities.

## Section 10. Where no arbitration decision will be provided

If the arbitration proceedings are terminated for the reason referred to in subparagraph b) of paragraph 12 of Article 19, subparagraph b) of Article 22 or paragraph 5 of Article 23 of the Multilateral Convention, the competent authorities will confirm such termination in writing, and consult with each other to determine subsequent proceedings.

## Section 11. Final Decision

1. If a final decision by a court of one of the Contracting States holds that the arbitration decision is invalid, the arbitration decision will not be binding on the Contracting States.

In such a case, the request for arbitration will be considered not to have been made, and the arbitration proceedings will be considered not to have taken place (except for the purposes of Articles 21 and 25 of the Multilateral Convention and sections 6 and 8).

In such a case, the person who made the request for arbitration may make a new request for arbitration, which will be accepted unless the competent authorities mutually decide that the actions of that person or its representatives were the main reason for the invalidation of the arbitration decision.

2. It is understood that ii) of subparagraph b) of paragraph 4 of Article 19 of the Multilateral Convention is intended to apply where, under the domestic laws of a Contracting State, a court has invalidated the arbitration decision based on a procedural or other failure or other conduct that has materially affected the outcome of the arbitration proceeding, which may include:

a) a violation of the impartiality or independence requirements applicable to arbitrators pursuant to Article 20 of the Multilateral Convention and section 4;

b) a breach of the confidentiality requirement applicable to arbitrators pursuant to Article 21 of the Multilateral Convention and section 6;

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

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

3. It is understood that paragraphs 1 and 2 do not provide independent grounds for the invalidation of an arbitration decision where such grounds do not exist under the domestic laws of the Contracting States.

## Section 12. Implementing the arbitration decision

The competent authorities will implement the arbitration decision within 180 days after the communication of the decision to them by reaching a mutual agreement referred to in paragraphs 2 and 3 of Article 25 of the Agreement on the case that led to the arbitration. The period may be shortened or extended to the period decided on by the competent authorities.

## Section 13. Entry into effect of Part VI of the Multilateral Convention

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

2. Pursuant to the reservation provided in paragraph 2 of Article 36 of the Multilateral Convention, Part VI of the Multilateral Convention will apply to a mutual agreement procedure case presented to the competent authority prior to the later of the dates on which the Multilateral Convention has entered into force for each of the Contracting States, only to the extent that the competent authorities mutually decide that it will apply to that specific case.

Within 10 days after such a decision, the competent authorities will provide written notification to the person who presented the case of (i) the decision by the competent authorities and (ii) the start date of the two-year period (such a decision will specify which of the two competent authorities will provide this notification).

## Section 14. Reservations with respect to the scope of cases that will be eligible for arbitration under the provisions of Part VI of the Multilateral Convention

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

a) By Japan

i) Japan reserves the right to exclude from the scope of Part VI of the Multilateral Convention with respect to the Agreement cases falling within the provisions of paragraph 3 of Article 4 of the Agreement.

ii) Where a reservation made by the Republic of Singapore pursuant to subparagraph a) of paragraph 2 of Article 28 of the Multilateral Convention exclusively excludes, whether or not by referring to its domestic law, from the scope of Part VI of the Multilateral Convention cases of taxation in the Republic of Singapore, Japan reserves the right to exclude from the scope of Part VI of the Multilateral Convention with respect to the Agreement cases of taxation in Japan which are analogous to the cases referred to in the Republic of Singapore's reservation.

b) By the Republic of Singapore

The Republic of Singapore reserves the right to exclude from the scope of Part VI of the Multilateral Convention cases involving the application of its domestic general anti-avoidance rules contained in Section 33 of the Income Tax Act, case law or juridical doctrines. Any subsequent provisions replacing, amending or updating these anti-avoidance rules would also be comprehended. The Republic of Singapore shall notify the Depositary of any such subsequent provisions.

The competent authorities may modify or supplement this Arrangement by an exchange of letters between them.

Signed in duplicate, in the English language.

| | |
|---|---|
| For the Competent Authority of Japan | For the Competent Authority of the Republic of Singapore |
| Mr. Isaya MUTO<br>Deputy Commissioner<br>International Affairs<br>National Tax Agency | Ms. Evelyn LIO<br>Assistant Commissioner<br>International Tax and Relations Division<br>Inland Revenue Authority of Singapore |
| Date: June 6, 2022 | Date: June 10, 2022 |

# ANNEX C

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

The Government of the Republic of Singapore and the Government of Japan,

Desiring to amend the Agreement between the Government of the Republic of Singapore and the Government of Japan for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed at Singapore on 9 April 1994 (hereinafter referred to as "the Agreement"),

Have agreed as follows:

**Article 1**

Article 26 of the Agreement shall be deleted and replaced by the following:

**"ARTICLE 26**

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

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 Contracting State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person. However, a Contracting State may decline to supply information relating to confidential communications between attorneys, solicitors or other admitted legal representatives in their role as such and their clients to the extent that the communications are protected from disclosure under the domestic laws of that Contracting State."

**Article 2**

1. Each of the Contracting States shall send through diplomatic channels to the other the notification confirming that its internal procedures necessary for the entry into force of this Protocol have been completed. The Protocol shall enter into force on the thirtieth day after the date of receipt of the latter notification.

2. This Protocol shall remain in effect as long as the Agreement remains in force.

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

DONE in duplicate at Singapore on this 4th day of February, 2010, in the English language.

| **For the Government of the Republic of Singapore** | **For the Government of Japan** |
|---|---|

# ANNEX D

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

The Government of the Republic of Singapore and the Government of Japan,

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

Have agreed as follows:

**ARTICLE 1**

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

**ARTICLE 2**

1. The taxes which are the subject of this Convention are:

(a) In Japan:

(i) the income tax; and

(ii) the corporation tax

(hereinafter referred to as "Japanese tax").

(b) In Singapore:

the income tax

(hereinafter referred to as "Singapore tax").

2. This Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, those referred to in paragraph 1 of this Article.

**ARTICLE 3**

1. In this Convention, unless the context otherwise requires:

(a) the term "Japan", when used in a geographical sense, means all the territory in which the laws relating to Japanese tax are in force;

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

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

(d) the term "tax" means Japanese tax or Singapore tax, as the context requires;

(e) the term "person" includes an individual, a company and a body of persons, but does not include a partnership, and in the case of Singapore, also includes a Hindu joint family and a corporation sole;

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

(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 "citizens" or "nationals" means:

(i) in the case of Japan, all individuals possessing the nationality of Japan and all juridical persons created under the laws of Japan and all organisations without juridical personality treated for the purposes of Japanese tax as juridical persons created under the laws of Japan;

(ii) in the case of Singapore, all individuals possessing the citizenship of Singapore and all legal persons, partnerships, associations and other entities deriving their status as such from the laws in force in Singapore.

(i) the term "competent authority" means, in the case of Japan, the Minister of Finance or his authorised representative, and in the case of Singapore, the Minister for Finance or his authorised representative.

2. As regards the application of this Convention by a Contracting State, any term not otherwise defined in this Convention 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 Convention.

**ARTICLE 4**

1. The term "resident of a Contracting State" used in this Convention means any person who is resident in a Contracting State for tax purposes of that Contracting State.

2. Where by reason of the provisions of paragraph 1 of this Article a person is a resident of both Contracting States, then the competent authorities shall determine by mutual agreement the Contracting State of which that person shall be deemed to be a resident for the purposes of this Convention.

**ARTICLE 5**

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

2. The term "permanent establishment" shall include especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

(f) a mine, oil well, quarry or other place of extraction of natural resources;

(g) a farm or plantation;

(h) a building site or construction or assembly project which exists for more than six months.

3. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on supervisory activities in that other Contracting State for more than six months in connection with a construction, installation or assembly project which is being undertaken in that other Contracting State.

4. The term "permanent establishment" shall not be deemed to include:

(a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

(c) the maintenance of a 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 advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

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

(a) he has, and habitually exercises in that first-mentioned Contracting State, an authority to conclude contracts in the name of the enterprise, unless his

activities are limited to the purchase of goods or merchandise for the enterprise; or

(b) he maintains in that first-mentioned Contracting State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise.

6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other Contracting State through a broker, general commission agent or any other agent of an independent status, where 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 Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

**ARTICLE 6**

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

2. The term "immovable property" shall be defined in accordance with the laws of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, rights to which the provisions of general law respecting immovable property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 of this Article 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 of this Article shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

**ARTICLE 7**

1. The profits of an enterprise of a Contracting State shall be taxable only in that Contracting 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 Contracting State but only so much of them as is attributable to that permanent establishment.

2. Where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

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

4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

5. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

**ARTICLE 8**

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

2. The provisions of paragraph 1 of this Article shall likewise apply in respect of participations in pools, in a joint business or in an international operations agency of any kind by enterprises engaged in the operation of ships or aircraft in international traffic.

**ARTICLE 9**

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.

**ARTICLE 10**

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 Contracting State.

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

(a) 10 per cent of the gross amount of the dividends if the recipient is a company which owns at least 25 per cent of the voting shares of the company paying such dividends during the period of six months immediately preceding the date of payment of the dividends;

(b) in all other cases, 15 per cent of the gross amount of the dividends.

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

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

4. Notwithstanding the provisions of paragraph 2 of this Article, as long as Singapore does not impose a tax on dividends in addition to the tax chargeable on the profits or income of a company, dividends paid by a company which is a resident of Singapore to a resident of Japan shall be exempt from any tax in Singapore which may be chargeable on dividends in addition to the tax chargeable on the profits or income of the company.

5. The provisions of paragraphs 1 and 2 of this Article shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of Article 7 shall apply.

6. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other Contracting State may not impose any tax on the dividends paid by the company to persons who are not residents of that other Contracting State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other Contracting State.

**ARTICLE 11**

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

2. However, such interest may be taxed in the Contracting State in which it arises, and according to the laws of that Contracting State, but the tax so charged shall not exceed 15 per cent of the gross amount of the interest.

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

4. For the purposes of paragraph 3 of this Article, the term "Government" -

(a) in the case of Japan means the Government of Japan and shall include -

(i) the local authorities;

(ii) the Bank of Japan;

(iii) the Export-Import Bank of Japan;

(iv) the Overseas Economic Cooperation Fund; and

(v) such institutions, the capital of which is wholly owned by the Government of Japan or the local authorities, as may be agreed from time to time between the Governments of the two Contracting States;

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

(i) the Board of Commissioners of Currency;

(ii) the Monetary Authority of Singapore; and

(iii) such institutions, the capital of which is wholly owned by the Government of Singapore, as may be agreed from time to time between the Governments of the two Contracting States.

5. Notwithstanding the provisions of paragraph 2 of this Article, interest arising in a Contracting State and paid to a resident of the other Contracting State on debentures issued by, or on loans (including loans in the form of deferred payments) made to, an enterprise of the first-mentioned Contracting State engaged in an industrial undertaking shall be exempt from tax of that first-mentioned Contracting State.

6. For the purposes of paragraph 5 of this Article, the term "industrial undertaking" means an undertaking which is approved by the competent authority of the Contracting State in which the undertaking is situated, and falls under any of the classes mentioned below -

(a) manufacturing, assembling and processing;

(b) construction and civil engineering;

(c) ship-building, ship-breaking and ship-docking;

(d) electricity, hydraulic power, gas and water supply;

(e) mining, including the working of a quarry or any other source of mineral deposits;

(f) plantation, agriculture, forestry and fishery; and

(g) any other undertaking which may be declared to be an "industrial undertaking" for the purposes of this Article.

7. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind, and any excess of the amount repaid in respect of such debt-claims over the amount lent, as well as all other income assimilated to income from money lent according to the taxation laws of the Contracting State in which the income arises.

8. The provisions of paragraphs 1, 2 and 5 of this Article shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the provisions of Article 7 shall apply.

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

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

**ARTICLE 12**

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be exempt from tax of the first-mentioned Contracting State.

2. 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 scientific work, any patent, trade mark, design or model, plan, or secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial or scientific experience.

3. The provisions of paragraph 1 of this Article shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the provisions of Article 7 shall apply.

4. Royalties shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a local authority or a resident of that Contracting State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

5. The provisions of paragraphs 1 and 4 of this Article shall likewise apply to proceeds arising from the alienation of any copyright of scientific work, any patent, trade mark, design or model, plan, or secret formula or process.

6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

**ARTICLE 13**

1. Subject to the provisions of Articles 14, 16, 17, 18 and 19, salaries, wages and other similar remuneration or income for personal (including professional) services derived by a resident of a Contracting State, shall be taxable only in that Contracting State, unless the services are performed in the other Contracting State. If the services are so performed, such remuneration or income as is derived therefrom may be taxed in that other Contracting State.

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

(a) the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned; and

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

(c) the remuneration or income is not borne by a permanent establishment which that person has in the other Contracting State.

**ARTICLE 14**

Remuneration 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 Contracting State.

**ARTICLE 15**

1. The provisions of Article 13 shall not apply to the income derived from a Contracting State from services rendered by a public entertainer (such as stage, motion picture, radio or television artiste, musician and athlete) being a resident of the other Contracting State whose visit to the first-mentioned Contracting State is not supported, wholly or substantially, from the public funds of the Government of that other Contracting State.

2. Where the services mentioned in paragraph 1 of this Article are provided in a Contracting State by an enterprise of the other Contracting State, then the income derived from providing those services by such enterprise may be taxed in the first-mentioned Contracting State, unless the enterprise is supported, wholly or substantially, from the public funds of the Government of that other Contracting State in connection with the provision of such services.

3. For the purposes of this Article, the term "Government" shall include any local authority of either Contracting State.

**ARTICLE 16**

Subject to the provisions of paragraphs 1 and 2 of Article 17, any pension or any annuity derived by an individual who is a resident of a Contracting State from the other Contracting State shall be taxable only in the first-mentioned Contracting State.

**ARTICLE 17**

1. Remuneration paid by the Government of Japan or pensions paid by or out of funds to which contributions are made by the Government of Japan to any individual who is a national of Japan in respect of services rendered in the discharge of governmental functions shall be exempt from Singapore tax, unless such individual is a citizen of Singapore or has been admitted to Singapore for permanent residence therein.

2. Remuneration, including pensions, paid by the Government of Singapore to any individual who is a citizen of Singapore in respect of services rendered in the discharge of governmental functions shall be exempt from Japanese tax, unless such individual is a national of Japan or has been admitted to Japan for permanent residence therein.

3. The provisions of this Article shall not apply to payments in respect of services rendered in connection with any business carried on by the Government of either of the Contracting States for the purposes of profit.

4. For the purposes of this Article, the term "Government" shall have the same meaning as in paragraph 3 of Article 15.

5. The application of the provisions of this Article shall not be limited by the provisions of Article 1.

**ARTICLE 18**

An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State, and who, at the invitation of any university, college, school or other similar educational institution, which is recognised by the competent authority in that other Contracting State, visits that other Contracting State for a period not exceeding two years solely for the purpose of teaching or research or both at such educational institution shall be exempt from tax in that other Contracting State on his remuneration for such teaching or research.

**ARTICLE 19**

1. An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State and is temporarily present in that other Contracting State solely -

(a) as a student at a recognised university, college or school in that other Contracting State,

(b) as a recipient of grant, allowance or award for the primary purpose of study or research from a governmental, religious, charitable, scientific, literary or educational organisation, or

(c) as a business apprentice,

shall be exempt from tax of that other Contracting State in respect of -

(i) remittances from abroad for the purposes of his maintenance, education, study, research or training,

(ii) the grant, allowance or award, and

(iii) remuneration for personal services in that other Contracting State not exceeding the sum of 360,000 Yen or its equivalent sum in Singapore currency, during any taxable year or year of assessment, as the case may be.

2. An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State and is temporarily present in that other Contracting State for a period not exceeding twelve months as an employee of, or under contract with, an enterprise of the first-mentioned Contracting State, or an organisation referred to in paragraph 1 (b) of this Article, solely to acquire technical, professional or business experience from a person other than such enterprise or organisation, shall be exempt from tax of that other Contracting State on the remuneration for such period, received from abroad, or paid in that other Contracting State for his services directly related to the acquisition of such experience, if the amount thereof does not exceed the sum of 1,420,000 Yen or its equivalent sum in Singapore currency, during any taxable year or year of assessment, as the case may be.

3. An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State and is temporarily present in that other Contracting State under arrangements with the Government (including a local government) of that other Contracting State or any authority or agency thereof, solely for the purpose of study, research or training shall be exempt from tax of that other Contracting State on remuneration, received from abroad, or paid in that other Contracting State for his services directly related to such study, research or training, if the amount thereof does not exceed the sum of 1,420,000 Yen or its equivalent sum in Singapore currency, during any taxable year or year of assessment, as the case may be.

4. The benefits of paragraph 1, 2 or 3 of this Article shall not be concurrently cumulative.

**ARTICLE 20**

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

However, this limitation does not apply to income derived by the Government of a Contracting State from sources in the other Contracting State. For the purposes of this Article the term "Government" shall have the same meaning as in paragraph 4 of Article 11.

**ARTICLE 21**

1. Subject to the laws of Japan regarding the allowance as a credit against Japanese tax of tax payable in any country other than Japan, Singapore tax payable in respect of income derived from Singapore shall be allowed as a credit against Japanese tax payable in respect of that income. Where such income is a dividend paid by a company which is a resident of Singapore to a company which is a resident of Japan which owns not less than 25 per cent either of the voting shares of the company paying the dividend or of the total shares issued by that company, the credit shall take into account Singapore tax payable by that company in respect of its income.

2. Subject to the laws of Singapore regarding the allowance as a credit against Singapore tax of tax payable in any country other than Singapore, Japanese tax payable in respect of income derived from Japan shall be allowed as a credit against Singapore tax payable in respect of that income. Where such income is a dividend paid by a company which is a resident of Japan to a company which is a resident of Singapore which owns not less than 25 per cent either of the voting shares of the company paying the dividend or of the total shares issued by that company, the credit shall take into account Japanese tax payable by that company in respect of its income.

3. For the purposes of paragraph 1 of this Article, the term "Singapore tax payable" shall be deemed to include, in the case of interest on any debentures or loans of the kind mentioned in paragraph 5 of Article 11, or in the case of royalties or proceeds mentioned in paragraph 1 or 5 of Article 12, the amount of the Singapore tax which would have been paid if the Singapore tax had not been exempted in accordance with the provisions of paragraph 5 of Article 11 or paragraph 1 or 5 of Article 12.

4. For the purposes of paragraph 1 of this Article, the term "Singapore tax payable" shall be deemed to include the amount of Singapore tax which would have been paid if the Singapore tax had not been exempted in accordance with the special incentive measures designed to promote economic development in Singapore, effective on the date of signature of this Convention, or which may be introduced in future in the Singapore taxation laws in modification of, or in addition to, the existing measures:

Provided that the scope of the benefit accorded to the taxpayer by those measures shall be agreed to by the Governments of both Contracting States.

**ARTICLE 22**

1. Citizens or 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 citizens or nationals of that other Contracting State in the same circumstances are or may be subjected. This provision shall not be construed as obliging Singapore to grant to nationals of Japan not resident in Singapore those personal allowances, reliefs and reductions for tax purposes which are by law available on the date of signature of this Convention only to citizens of Singapore or to such other persons as may be specified therein who are not resident in Singapore.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other Contracting State than the taxation levied on enterprises of that other Contracting States carrying on the same activities. This provision shall not be construed as obliging either of the Contracting States to grant to citizens or nationals of the other Contracting State not resident in the first-mentioned Contracting State those personal allowances, reliefs and reductions for tax purposes which are by law available only to residents of that first-mentioned Contracting State.

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 Contracting State are or may be subjected.

**ARTICLE 23**

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 Convention, he may, notwithstanding the remedies provided by the laws of those Contracting States, present his case to the competent authority of the Contracting State of which he is a resident.

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 that 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 Convention.

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 this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purposes of reaching an agreement in the sense of the preceding paragraphs.

**ARTICLE 24**

1. The competent authorities of both Contracting States shall exchange such information available under their respective taxation laws in the normal course of administration as is necessary for carrying out the provisions of this Convention or for the prevention of fraud or for the administration of statutory provisions against tax avoidance in relation to the tax. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those, including a court, concerned with the assessment and collection of the tax or the determination of appeal in relation thereto.

2. In no case shall the provisions of paragraph 1 of this Article 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 25**

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

**ARTICLE 26**

1. This Convention shall be approved by Japan and Singapore in accordance with their respective legal procedures, and shall enter into force on the date of exchange of notes indicating such approval.

2. This Convention shall have effect:

(a) in Japan:

as respects Japanese tax for the taxable years beginning on or after the first day of January, 1971;

(b) in Singapore:

as respects Singapore tax for the year of assessment beginning on the first day of January, 1971, and subsequent years of assessment.

**ARTICLE 27**

Either of the Contracting States may terminate this Convention after a period of five years from the date on which this Convention enters into force by giving to the other Contracting State, through diplomatic channels, written notice of termination, provided that such notice shall be given on or before the thirtieth day of June, and in such event this Convention shall cease to have effect:

(a) in Japan:

as respects Japanese tax for the taxable years beginning on or after the first day of January of the calendar year next following that in which such notice is given;

(b) in Singapore:

as respects Singapore tax for the years of assessment beginning on the first day of January of the calendar year next following that in which such notice is given and subsequent years of assessment.

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

Done in duplicate at Singapore this 29th day of January of the year one thousand nine hundred and seventy-one in the English language.

| | |
|---|---|
| ***For the Government of the Republic of Singapore:*** | ***For the Government of Japan:*** |
| **HON SUI SEN** | **YASUHIKO NARA** |

**Protocol (1971)**

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

1. The Government of the Republic of Singapore shall be exempt from Japanese tax with respect to dividends from, or gains from the alienation of, the securities mentioned in paragraph 2 of this Protocol derived by that Government from sources within Japan, provided that the scope of the aforesaid securities shall be agreed to by the Governments of both Contracting States.

However, the exemption shall be limited to dividends or gains with respect to securities held for public purposes only and not for any other purposes, provided that the holding of those securities does not constitute a substantial participation in the invested company.

2. The term “securities” mentioned in paragraph 1 of this Protocol means shares or other rights referred to in paragraph 3 of Article 10 of the said Convention or Government securities, bonds or debentures referred to in paragraph 7 of Article 11 of the said Convention.

3. Notwithstanding the provisions of paragraph 2 of Article 26 of the said Convention, the provisions concerning the exemption of tax on dividends in paragraph 1 of this Protocol shall be applicable as respects dividends derived by the Government of the Republic of Singapore on or after the first day of January, 1970.

Done in duplicate at Singapore this 29th day of January of the year one thousand nine hundred and seventy-one in the English language.

| | |
|---|---|
| ***For the Government of the Republic of Singapore:*** | ***For the Government of Japan:*** |
| **HON SUI SEN** | **YASUHIKO NARA** |

# ANNEX E

## PROTOCOL AMENDING THE CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE AND THE GOVERNMENT OF JAPAN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME. SIGNED AT SINGAPORE ON 29TH JANUARY, 1971.

The Government of the Republic of Singapore and the Government of Japan:

Desiring to conclude a Protocol to amend the Convention between the Contracting Governments for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at Singapore on 29th January, 1971 (hereinafter referred to as "the Convention");

Have agreed as follows:

**ARTICLE 1**

Article 12 of the Convention shall be deleted and replaced by the following:

"**ARTICLE 12**

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

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

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of scientific work, 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 or scientific experience.

4. Royalties shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a local authority or a resident of that Contracting State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

5. The provisions of paragraphs 1, 2 and 4 of this Article shall likewise apply to proceeds arising from the alienation of any copyright of scientific work, any patent, trade mark, design or model, plan, or secret formula or process.

6. The provisions of paragraphs 1, 2 and 5 of this Article shall not apply if the recipient of the royalties or the proceeds, being a resident of a Contracting State, has in the other Contracting State in which the royalties or the proceeds arise a permanent establishment with which the right or property giving rise to the royalties or the property the alienation of which gives rise to the proceeds is effectively connected. In such a case, the provisions of Article 7 shall apply.

7. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

8. This Convention shall not apply to payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary or artistic work including cinematograph films and films or tapes for radio or television broadcasting, or for information concerning commercial experience."

**ARTICLE 2**

Article 15 of the Convention shall be deleted and replaced by the following:

"**ARTICLE 15**

1. Notwithstanding the provisions of Article 13, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other Contracting State.

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

2. Where income in respect of personal activities exercised in a Contracting State by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person who is a resident of the other Contracting State, that income may, notwithstanding the provisions of Articles 7 and 13, be taxed in the first-mentioned Contracting State.

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

**ARTICLE 3**

Article 19 of the Convention shall be amended as follows:

1. By deleting the expression "360,000 Yen" in sub-paragraph (iii) of paragraph 1 and replacing it by the expression "600,000 Yen",

2. By deleting the expression "1,420,000 Yen" in paragraph 2 and replacing it by the expression "1,800,000 Yen", and

3. By deleting the expression "1,420,000 Yen" in paragraph 3 and replacing it by the expression "1,800,000 Yen".

**ARTICLE 4**

The following new Article shall be inserted immediately after Article 19 of the Convention:

"**ARTICLE 19A**

Items of income not dealt with in the foregoing Articles of this Convention and derived by a resident of a Contracting State from sources in the other Contracting State may be taxed in both Contracting States."

**ARTICLE 5**

Paragraphs 3 and 4 of Article 21 of the Convention shall be deleted and replaced by the following:

"3. For the purposes of paragraph 1 of this Article, Singapore tax shall always be considered as having been paid at the rate of 15 per cent of the gross amount in the case of interest to which the provisions of paragraph 5 of Article 11 apply, and of royalties or proceeds to which the provisions of paragraph 2 or 5 of Article 12 apply.

4. For the purposes of paragraph 1 of this Article, the term "Singapore tax payable" shall be deemed to include the amount of Singapore tax which would have been paid if the Singapore tax had not been exempted or reduced in accordance with the special incentive measures designed to promote economic development in Singapore, effective on January 14, 1981, or which may be introduced thereafter in the Singapore taxation laws in modification of, or in addition to, the existing measures:

Provided that the scope of the benefit accorded to the taxpayer by those measures shall be agreed to by the Governments of both Contracting States."

**ARTICLE 6**

1. This Protocol shall be approved by Japan and Singapore in accordance with their respective legal procedures, and shall enter into force on the date of exchange of notes indicating such approval.

2. The Convention shall have effect as amended by this Protocol:

(a) in Japan:

as respects Japanese tax for the taxable years beginning on or after the first day of January of the calendar year next following that in which this Protocol enters into force;

(b) in Singapore:

as respects Singapore tax for the years of assessment beginning on or after the first day of January of the calendar year next following that in which this Protocol enters into force.

3. This Protocol shall continue in force as long as the Convention remains in force.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Protocol.

DONE in duplicate at Singapore this 14th day of January of the year one thousand nine hundred and eighty-one in the English language.

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|---|---|
| ***For the Government of the Republic of Singapore:*** | ***For the Government of Japan:*** |
| **S DHANABALAN.** | **MASA YOSHI ITO.** |

**EXCHANGE OF NOTES (1981)**

January 14, 1981

Excellency,

I have the honour to refer to the Convention between the Government of the Republic of Singapore and the Government of Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income which was signed at Singapore on January 29, 1971, and to the Protocol amending the said Convention which was signed today, and to confirm, on behalf of the Government of the Republic of Singapore, the following understanding reached between the two Governments:

1. With reference to paragraph 4 of Article 21 of the said Convention as amended, the measures set forth in the following sections of the Economic Expansion Incentives (Relief from Income Tax) Act, No. 36 of 1967 as amended by the Acts No. 31 of 1970, No. 27 of 1975 and Nos. 8 and 32 of 1979 of the Republic of Singapore, effective on January 14, 1981, are "the special incentive measures designed to promote economic development in Singapore" referred to in the said paragraph:

(i) Sections 13 and 14 - relating to exemption from income tax of the income of a pioneer enterprise and the dividends attributable to the exempt income of such an enterprise;

(ii) Sections 20 and 21 - relating to exemption from income tax of the increase in the expansion income of an expanding enterprise and the dividends attributable to the exempt income of such an enterprise;

(iii) Sections 32 and 33 - relating to exemption from income tax of the income of an export enterprise and the dividends attributable to the exempt income of such an enterprise;

(iv) Sections 37G and 37I - only to the extent that they are relevant to Section 37B(1)(a) - relating to exemption from income tax of the increase in the export income of an international trading company and the dividends attributable to the exempt income of such a company;

(v) Sections 46F and 46G - relating to exemption from income tax of the income of a company which has been granted an investment allowance under Section 46B and the dividends attributable to the exempt income of such a company;

(vi) Sections 46P and 46Q - relating to exemption from income tax of the increase in the export income of a warehousing company or a servicing company and the dividends attributable to the exempt income of such a company.

2.

(a) The present arrangements shall have effect as respects Japanese tax and Singapore tax to which the said Convention as amended applies in accordance with the provisions of paragraph 2 of Article 6 of the said Protocol.

(b) The arrangements contained in the Exchange of Notes between the two Governments dated January 29, 1971 concerning paragraphs 3 and 4 of

Article 21 of the said Convention shall cease to have effect as respects Japanese tax and Singapore tax to which the present arrangements apply as provided for in (a) above.

I have further the honour to request Your Excellency to be good enough to confirm the foregoing understanding on behalf of Your Excellency's Government.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

S. DHANABALAN

His Excellency Mr. Masayoshi Ito,
Minister for Foreign Affairs of Japan.

January 14, 1981

Excellency,

I have the honour to acknowledge receipt of Your Excellency's Note of today's date, which reads as follows:

"I have the honour to refer to the Convention between the Government of the Republic of Singapore and the Government of Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income which was signed at Singapore on January 29, 1971, and to the Protocol amending the said Convention which was signed today, and to confirm, on behalf of the Government of the Republic of Singapore, the following understanding reached between the two Governments:

1. With reference to paragraph 4 of Article 21 of the said Convention as amended, the measures set forth in the following sections of the Economic Expansion Incentives (Relief from Income Tax) Act, No. 36 of 1967 as amended by the Acts No. 31 of 1970, No. 27 of 1975 and Nos. 8 and 32 of 1979 of the Republic of Singapore, effective on January 14, 1981, are "the special incentive measures designed to promote economic development in Singapore" referred to in the said paragraph:

(i) Sections 13 and 14 - relating to exemption from income tax of the income of a pioneer enterprise and the dividends attributable to the exempt income of such an enterprise;

(ii) Sections 20 and 21 - relating to exemption from income tax of the increase in the expansion income of an expanding enterprise and the dividends attributable to the exempt income of such an enterprise;

(iii) Sections 32 and 33 - relating to exemption from income tax of the income of an export enterprise and the dividends attributable to the exempt income of such an enterprise;

(iv) Sections 37G and 37I - only to the extent that they are relevant to Section 37B(1)(a) - relating to exemption from income tax of the increase in the export income of an international trading company and the dividends attributable to the exempt income of such a company;

(v) Sections 46F and 46G - relating to exemption from income tax of the income of a company which has been granted an investment allowance under Section 46B and the dividends attributable to the exempt income of such a company;

(vi) Sections 46P and 46Q - relating to exemption from income tax of the increase in the export income of a warehousing company or a servicing company and the dividends attributable to the exempt income of such a company.

2.

(a) The present arrangements shall have effect as respects Japanese tax and Singapore tax to which the said Convention as amended applies

in accordance with the provisions of paragraph 2 of Article 6 of the said Protocol.

(b) The arrangements contained in the Exchange of Notes between the two Governments dated January 29, 1971 concerning paragraphs 3 and 4 of Article 21 of the said Convention shall cease to have effect as respects Japanese tax and Singapore tax to which the present arrangements apply as provided for in (a) above.

I have further the honour to request Your Excellency to be good enough to confirm the foregoing understanding on behalf of Your Excellency's Government."

I have further the honour to confirm the understanding contained in Your Excellency's Note, on behalf of the Government of Japan.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

MASAYOSHI ITO

His Excellency Mr. S Dhanabalan,
Minister for Foreign Affairs
of the Republic of Singapore

# ANNEX F

## CONVENTION BETWEEN THE GOVERNMENT OF THE STATE OF SINGAPORE AND THE GOVERNMENT OF JAPAN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the State of Singapore with the authority and consent of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Japan,

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

Have appointed for that purpose as their respective Plenipotentiaries:

The Government of the State of Singapore:

Dr. Goh Keng Swee, Minister for Finance of the State of Singapore, and

The Government of Japan:

Mr. Kensaku Maeda, Consul-General of Japan at Singapore,

Who, having communicated to each other their respective full powers, found in good and due form, have agreed upon the following Articles:-

**ARTICLE I**

1. The taxes which are the subject of the present Convention are -

(a) in the State of Singapore:

the income tax

(hereinafter referred to as "Singapore tax"); and

(b) in Japan:

the income tax and the corporation tax

(hereinafter referred to as "Japanese tax").

2. The present Convention shall also apply to any other tax on income, gains or profits which has a substantially similar character to those referred to in the preceding paragraph and which may be imposed in either Contracting State after the date of signature of the present Convention.

**ARTICLE II**

1. In the present Convention, unless the context otherwise requires -

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

(b) the term "Japan", when used in a geographical sense, means all the territory in which the laws relating to Japanese tax are enforced;

(c) the terms "one of the Contracting States" and "the other Contracting State" mean Singapore or Japan, as the context requires;

(d) the term "tax" means Singapore tax or Japanese tax, as the context requires;

(e) the term "Singapore corporation" means any company or any body of persons the business of which is managed and controlled in Singapore and which does not have its head or main office in Japan; and the term "Japanese corporation" means any corporation or other association having juridical personality or any association without juridical personality which has its head or main office in Japan and the business of which is not managed and controlled in Singapore;

(f) the terms "corporation of one of the Contracting States" and "corporation of the other Contracting State" mean a Singapore corporation or a Japanese corporation, as the context requires;

(g) the term "resident of Singapore" means any person, other than a company or a body of persons, who is resident in Singapore for the purposes of Singapore tax and not resident in Japan for the purposes of Japanese tax and any Singapore corporation; and the term "resident of Japan" means any individual who is resident in Japan for the purposes of Japanese tax and not resident in Singapore for the purposes of Singapore tax and any Japanese corporation;

(h) the terms "resident of one of the Contracting States" and "resident of the other Contracting State" mean a resident of Singapore or a resident of Japan, as the context requires;

(i) the term "Singapore enterprise" means an industrial (including plantation and agricultural) or commercial enterprise or undertaking carried on by a resident of Singapore; and the term "Japanese enterprise" means an industrial (including plantation and agricultural) or commercial enterprise or undertaking carried on by a resident of Japan;

(j) the terms "enterprise of one of the Contracting States" and "enterprise of the other Contracting State" mean a Singapore enterprise or a Japanese enterprise, as the context requires;

(k) the term "permanent establishment" when used with respect to an enterprise of one of the Contracting States, means an office, branch, factory, or other

fixed place of business where the business of the enterprise is carried on, but does not include the casual and temporary use of mere storage facility. It includes a farm, a plantation, a mine, a quarry or any other place of natural resources subject to exploitation. It also includes an agency if the agent has and habitually exercises a general authority to negotiate and conclude contracts on behalf of the enterprise or has a stock of merchandise from which he regularly fills orders on its behalf.

In this connection -

(i) an enterprise of one of the Contracting States shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business dealings in that other Contracting State through a bona fide broker, general commission agent, or other independent agent acting in the ordinary course of his business as such;

(ii) the fact that an enterprise of one of the Contracting States maintains in the other Contracting State a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise; and

(iii) the fact that a corporation of one of the Contracting States has a subsidiary corporation which is a corporation of the other Contracting State or which carries on a trade or business in that other Contracting State (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary corporation a permanent establishment of its parent corporation;

(l) the term "industrial or commercial profits" does not include rents or royalties in respect of motion picture films or of mines, quarries, or other places of natural resources subject to exploitation, or income in the form of dividends, interest, rents, royalties, capital gains, or fees or other remuneration derived from the management, control or supervision of the trade, business, or other activity of another enterprise or undertaking, or remuneration for personal services;

(m) the term "competent authorities" means, in the case of Singapore, the Minister for Finance or his authorised representative; and in the case of Japan, the Minister of Finance or his authorised representative.

2. Where the present Convention provides (with or without other conditions) that income derived from sources within one of the Contracting States shall be exempt from tax of that Contracting State if it is subject to tax of the other Contracting State, and under the law in force in that other Contracting State the said income is subject to tax by reference to the amount thereof which is remitted to or received in that other Contracting State and not by reference to the full amount thereof, then the exemption to be allowed under the present Convention in the former Contracting State shall apply only to so much of the income as is remitted to or received in that other Contracting State.

3. In the application of the provisions of the present Convention by either 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 tax.

**ARTICLE III**

1. The industrial or commercial profits of an enterprise of one of the Contracting States shall not be subject to tax in the other Contracting State unless the enterprise carries on a trade or business in that other Contracting State through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits in that other Contracting State, but only on so much of them as is attributable to that permanent establishment.

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

3. Where an enterprise of one of the Contracting States derives profits under contracts concluded therein from the sale of goods or merchandise stocked in a warehouse in the other Contracting State for convenience of delivery and not for purposes of display, those profits shall not be attributed to a permanent establishment of the enterprise in that other Contracting State, notwithstanding that the offers of purchase have been obtained by an agent of the enterprise in that other Contracting State and transmitted by him to the enterprise for acceptance.

4. In determining the industrial or commercial profits of a permanent establishment, there shall be allowed as deductions all expenses wherever incurred, reasonably allocable to such permanent establishment, including executive and general administrative expenses so allocable.

5. In determining the tax of one of the Contracting States, no account shall be taken of the mere purchase of goods or merchandise therein by an enterprise of the other Contracting State.

6. Paragraph 1 of this Article shall not be construed as preventing one of the Contracting States from imposing, apart from those profits referred to in the said paragraph, pursuant to the present Convention and in conformity with the laws of that Contracting State tax on income (e.g. dividends, interest, rents or royalties) derived from sources within that Contracting State by a resident of the other Contracting State if such income is not attributable to a permanent establishment situated in that former Contracting State.

7. The competent authorities of both Contracting States may, consistent with the provisions of the present Convention, arrange details for the apportionment of industrial or commercial profits. Where such profits are derived by an enterprise from the sale in one of the Contracting States of goods manufactured or produced in the other Contracting State in whole or in part by the enterprise, such profits shall be apportioned in part to the former Contracting State and in part to that other Contracting State.

**ARTICLE IV**

Where -

(a) an enterprise of one of the Contracting States participates directly or indirectly in the managerial or financial control of an enterprise of the other Contracting State, or

(b) the same individual or corporation participates directly or indirectly in the managerial or financial control of an enterprise of one of the Contracting States 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 would but for those conditions have accrued to one of the enterprises but by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly.

**ARTICLE V**

Notwithstanding the provisions of Articles III and IV, profits which an enterprise of one of the Contracting States derives from the operation of ships or aircraft shall be exempt from tax of the other Contracting State, unless the ships or aircraft are operated wholly or mainly between places within that other Contracting State.

**ARTICLE VI**

1. Dividends paid by a corporation of one of the Contracting States to a resident of the other Contracting State shall not be chargeable to tax in the former Contracting State, in addition to the tax on the profits of that corporation out of which the dividends are paid, at a rate exceeding 15 per cent unless such dividends are attributable to a permanent establishment situated in that former Contracting State:

Provided that where the resident of the other Contracting State is a corporation which controls, directly or indirectly, not less than 50 per cent of the entire voting power of such corporation for at least six months immediately prior to the date when the dividend becomes payable, such dividend shall not be chargeable to tax in the former Contracting State at a rate exceeding 10 per cent.

2. Where a corporation of one of the Contracting States derives profits or income from sources within the other Contracting State, there shall not be imposed in that other Contracting State any form of taxation on dividends paid by the corporation unless paid to a resident of that other Contracting State, or any tax in the nature of undistributed profits tax on undistributed profits of the corporation, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

3. Dividends paid by a corporation of one of the Contracting States shall be treated as income from sources within that Contracting State.

**ARTICLE VII**

1. The Government of one of the Contracting States shall be exempt from tax of the other Contracting State with respect to interest on loans received by that Government from sources within that other Contracting State.

2. Any financial institution owned by one of the Contracting States shall be exempt from tax of the other Contracting State with respect to interest on loans received by that institution from sources within that other Contracting State.

3. Interest payable to a resident of one of the Contracting States on debentures issued by, or on loans (including loans in the form of deferred payments) made to, an enterprise of the other Contracting State engaged in an industrial undertaking shall be exempt from tax of

that other Contracting State unless such interest is attributable to a permanent establishment situated in that other Contracting State.

4. Interest paid by the Government (including a local government) of one of the Contracting States or authority or agency thereof, or by an enterprise of one of the Contracting States shall be treated as income from sources within that Contracting State, except that interest (other than that paid on indebtedness in connection with the purchase of ships or aircraft) paid -

(a) by an enterprise of one of the Contracting States with a permanent establishment outside both Contracting States to a resident of the other Contracting State, or

(b) by an enterprise of one of the Contracting State with a permanent establishment in the other Contracting State

on indebtedness incurred for the use of, or on banking deposits made with, the permanent establishment in the conduct of its trade or business shall be treated as income from sources within the State where the permanent establishment is situated.

5. In this Article, the term "interest" means interest on bonds, securities, notes, debentures or any other form of indebtedness.

6. In paragraph 3 of this Article, the term "industrial undertaking" means an undertaking falling under any of the classes mentioned below -

(a) manufacturing and processing;

(b) ship-building, ship-breaking and ship-docking;

(c) mining, including the working of a quarry or any other source of mineral deposits;

(d) plantation, agriculture, forestry and fishery; and

(e) any other undertaking which may be declared to be an "industrial undertaking" for the purposes of this Article by the competent authorities of the Contracting State in which the undertaking is situated.

**ARTICLE VIII**

1. Royalty derived from sources within one of the Contracting States by a resident of the other Contracting State shall be exempt from tax of the former Contracting State unless such royalty is attributable to a permanent establishment situated in that former Contracting State.

2. In this Article, the term "royalty" means any royalty, rental and other amount paid as consideration for using, or for the right to use, any copyright, patent, design, secret process and formula, trade-mark or other like property, but does not include any royalty and other amount paid in respect of the operation of a mine, a quarry or any other place of natural resources subject to exploitation.

3. Royalty shall be treated as income from sources within the Contracting State in which the property referred to in the preceding paragraph is to be used.

4. Where any royalty exceeds a fair and reasonable consideration in respect of the rights for which it is paid, the exemption provided by this Article shall apply only to so much of the royalty as represents such fair and reasonable consideration.

5. Income derived from sources within one of the Contracting States from the sale of the property referred to in paragraph 2 of this Article by a resident of the other Contracting State shall be exempt from tax of the former Contracting State unless such income is attributable to a permanent establishment situated in that former Contracting State.

6. Income derived from the sale of the property referred to in paragraph 2 of this Article shall be treated as income from sources within the Contracting State in which such property is to be used.

**ARTICLE IX**

1.

(a) Salaries, wages, similar remuneration or pensions paid by the Government of Singapore or any local or statutory authority of Singapore, or paid out of funds to which the Government of Singapore contributes, to an individual who is subject to Singapore tax on such payments (other than an individual who has been admitted to Japan for permanent residence therein) in respect of services rendered in the discharge of governmental functions shall be exempt from Japanese tax.

(b) Salaries, wages, pensions or similar remuneration paid by the Government of Japan or any local government or government agency of Japan, or paid out of funds to which the Government of Japan or any local government or government agency of Japan contributes, to an individual who is a national of Japan (other than an individual who has been admitted to Singapore for permanent residence therein) in respect of services rendered in the discharge of governmental functions shall be exempt from Singapore tax.

2. The provisions of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by such government, authority or agency of either of the Contracting States for the purpose of profit.

**ARTICLE X**

1. An individual who is a resident of one of the Contracting States shall be exempt from tax of the other Contracting State on profits or remuneration for personal (including professional) services performed within that other Contracting State in any year of assessment or taxable year, as the case may be, if -

(a) he is present within that other Contracting State for a period or periods not exceeding in the aggregate 183 days during that year,

(b) the services are performed for or on behalf of a resident of the former Contracting State, and

(c) the profits or remuneration are subject to tax of the former Contracting State.

2. The provisions of this Article shall not apply to the profits or remuneration of public entertainers, such as theatre, motion picture, radio or television artists, musicians and athletes, whose visit to one of the Contracting States is not supported from the public funds of the Government of the other Contracting State.

**ARTICLE XI**

An individual who is a resident of one of the Contracting States at the beginning of a visit to the other Contracting State and who at the invitation of the Government of the other Contracting State, or of a recognised university, college, school or other educational institution in that other Contracting State, visits that other Contracting State for a period not exceeding two years for the purpose of teaching or engaging in research at such educational institution in that other Contracting State, shall be exempt from tax of that other Contracting State in respect of the remuneration for such teaching or research.

**ARTICLE XII**

1. An individual who is a resident of one of the Contracting States at the beginning of a visit to the other Contracting State and is temporarily present in that other Contracting State solely -

(a) as a student at a recognised university, college or school in that other Contracting State,

(b) as a recipient of grant, allowance or award for the primary purpose of study or research from a governmental, religious, charitable, scientific, literary or educational organisation, or

(c) as a business apprentice,

shall be exempt from tax of that other Contracting State in respect of -

(i) remittances from abroad for the purposes of his maintenance, education, study, research or training,

(ii) the grant, allowance or award, and

(iii) remuneration for personal services in that other Contracting State not exceeding the sum of 360,000 Yen or its equivalent sum in Malayan currency, during any year of assessment or taxable year, as the case may be.

2. An individual who is a resident of one of the Contracting States at the beginning of a visit to the other Contracting State and is temporarily present in that other Contracting State for a period not exceeding twelve months as an employee of, or under contract with, an enterprise of the former Contracting State, or an organisation referred to in paragraph 1 (b) of this Article, solely to acquire technical, professional or business experience from a person other than such enterprise or organisation, shall be exempt from tax of that other Contracting State on the remuneration for such period, received from abroad, or paid in that other Contracting State for his services directly related to the acquisition of such experience, if the amount thereof does not exceed the sum of 1,400,000 Yen or its equivalent sum in Malayan currency, during any year of assessment or taxable year, as the case may be.

3. An individual who is a resident of one of the Contracting States at the beginning of a visit to the other Contracting State and is temporarily present in that other Contracting State under arrangements with the Government (including a local government) of that other Contracting State or any authority or agency thereof, solely for the purpose of study, research or training shall be exempt from tax of that other Contracting State on remuneration, received from abroad, or paid in that other Contracting State for his services directly related to such study, research or training, if the amount thereof does not exceed the

sum of 1,400,000 Yen or its equivalent sum in Malayan currency, during any year of assessment or taxable year, as the case may be.

4. The benefits of paragraph 1, 2 or 3 of this Article shall not be concurrently cumulative.

**ARTICLE XIII**

For the purposes of the present Convention -

(a) income derived from real property (including profits or gains derived from the sale, transfer or exchange of such property), and royalties in respect of the operation of mines, quarries or other places of natural resources subject to exploitation shall be treated as derived from sources within the Contracting State in which such real property, mines, quarries or other places of natural resources are situated;

(b) profits or gains (excluding industrial or commercial profits) derived from the sale, transfer or exchange of movable property (including shares, bonds, debentures and similar assets) shall be treated as derived from sources within the Contracting State in which such movable property is sold, transferred or exchanged;

(c) salaries, wages, or similar remuneration for personal (including professional) services shall be treated as income from sources within the Contracting State in which are rendered the services for which such remuneration is paid, and the services performed in ships or aircraft operated by an enterprise of one of the Contracting States shall be deemed to be rendered in that Contracting State, unless the ships or aircraft are operated wholly or mainly between places within the other Contracting State.

**ARTICLE XIV**

1. The laws in force in either of the Contracting States will continue to govern the taxation of income in the respective Contracting States except where provisions to the contrary are made in the present Convention.

2. Subject to the provisions of Singapore income tax law (as in effect on the date of signature of the present Convention) regarding the allowance as a credit against Singapore tax of tax payable in a territory outside Singapore, Japanese tax payable, whether directly or by deduction, in respect of income from sources within Japan, shall be allowed as a credit against any Singapore tax payable in respect of that income. Where the income is a dividend paid by a Japanese corporation, the amount of Japanese tax payable by the Japanese corporation on the profits out of which the dividend is paid shall not be deemed as tax payable by the taxpayer in Singapore in respect of such dividend.

3.

(a) Japan, in determining Japanese tax on a taxpayer in Japan, may include in the basis upon which that tax is imposed all items of income taxable under the laws of Japan. The amount of Singapore tax payable by the taxpayer in Japan under the laws of Singapore and in accordance with the provisions of the present Convention, whether directly or by deduction, in respect of income from sources within Singapore and subject to the taxes of both Contracting States shall, however, be allowed as a credit against Japanese tax payable in respect of that income, but in an amount not exceeding that

proportion of Japanese tax which that income (or the entire income subject to Japanese tax, whichever is the lesser) bears to the entire income subject to Japanese tax. Where the income is a dividend paid by a Singapore corporation, the amount of Singapore tax payable by the Singapore corporation on the profits out of which the dividend is paid shall not be deemed as tax payable by the taxpayer in Japan in respect of such dividend.

(b) For the purposes of the credit referred to in sub-paragraph (a) of this paragraph, there shall be deemed to have been paid by the taxpayer in Japan the amount of Singapore tax exempted under the provisions of paragraph 3 of Article VII of the present Convention, or the provisions of section 17 of the Pioneer Industries (Relief from Income Tax) Ordinance, 1959, of Singapore, which provides for the special measures designed to encourage the establishment and development in Singapore of industrial enterprises.

(c) For the purposes of the credit referred to in sub-paragraph (a) of this paragraph, where the taxpayer in Japan receives a dividend from a Singapore corporation which is exempted under the provisions of section 18 of the Pioneer Industries (Relief from Income Tax) Ordinance, 1959, there shall be deemed to have been paid by the taxpayer in Japan the amount of Singapore tax so exempted under the provisions of the said Ordinance.

(d) In the application of sub-paragraphs (b) and (c) of this paragraph, such exemption under the provisions of the Pioneer Industries (Relief from Income Tax) Ordinance, 1959, as is to be taken into account in allowing as a credit against Japanese tax shall not exceed the scope of the benefit accorded under the provisions of the said Ordinance as in effect on the date of signature of the present Convention.

**ARTICLE XV**

1. The competent authorities of both Contracting States shall exchange such information available under their respective tax laws in the normal course of administration as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or for the administration of statutory provisions against tax avoidance in relation to the tax. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those, including a court, concerned with the assessment and collection of the tax or the determination of appeal in relation thereto. No information shall be exchanged which would disclose any trade, business, industrial or professional secret or any trade process.

2. Each of the Contracting States may collect the tax imposed by the other Contracting State (as though such tax were the tax of the former Contracting State) as will ensure that exemptions, reduced rates of tax or any other benefit accorded under the present Convention by such other Contracting State shall not be enjoyed by persons not entitled to such benefits.

**ARTICLE XVI**

Any taxpayer, who shows proof that the action of the taxation authorities of either Contracting State has resulted or will result in double taxation contrary to the provisions of the present Convention, may lodge a claim with the competent authorities of the Contracting State of which the taxpayer is a resident. Should the claim be deemed justified, such competent authorities shall endeavour to come to an agreement with the competent

authorities of the other Contracting State with a view to avoidance of the double taxation in question.

**ARTICLE XVII**

Should any difficulty or doubt arise as to the interpretation or application of the present Convention, the competent authorities of the Contracting States may settle the question by mutual agreement; it being understood, however, that this provision shall not be construed to preclude the Contracting States from settling by negotiation through diplomatic channels any dispute arising under the present Convention.

**ARTICLE XVIII**

1. The provisions of the present Convention shall not affect the right to benefit by any more extensive exemptions which have been conferred, or which may hereafter be conferred, on diplomatic and consular officials in virtue of the general rules of international law.

2. The provisions of the present Convention shall not be construed to restrict in any manner any exemption, deduction, credit or other allowance now or hereafter accorded by the laws of one of the Contracting States in determining the tax of that Contracting State.

3. The competent authorities of either Contracting State may prescribe regulations necessary to interpret and carry out the provisions of the present Convention and may communicate with each other directly for the purpose of giving effect to the provisions of the present Convention.

**ARTICLE XIX**

1. Citizens or nationals of one of the Contracting States shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other, higher or more burdensome than the taxation and connected requirements to which citizens or nationals of that other Contracting State in the same circumstances are or may be subjected.

2. Enterprises of one of the Contracting States shall not, while having permanent establishments in the other Contracting State, be subject in that other Contracting State to any taxation or any requirement connected therewith which is other, higher or more burdensome than the taxation and connected requirements to which enterprises of that other Contracting State are or may be subjected.

3. Enterprises of one of the Contracting States, the capital of which is wholly or partly owned by one or more residents of the other Contracting State, shall not be subjected in the former Contracting State to any taxation or any requirement connected therewith which is other, higher or more burdensome than the taxation and connected requirements to which other enterprises of the former Contracting State, the capital of which is wholly or partly owned by one or more residents of that former Contracting State, are or may be subjected.

4. In this Article, the term "citizens or nationals" means -

(a) in the case of Singapore, all individuals possessing the citizenship of Singapore and all legal persons, partnerships, associations and other entities deriving their status as such from, or created or organised under, the law in force in Singapore; and

(b) in the case of Japan, all individuals possessing the nationality of Japan and all corporations and other associations (with or without juridical personality) deriving their status as such from the law in force in Japan.

5. In this Article, the term "taxation" means taxes of every kind or description.

6. Nothing contained in this Article shall be construed as obliging either of the Contracting States to grant to citizens or nationals of the other Contracting State not resident of the former Contracting State those personal allowances, reliefs and reductions for tax purposes which are by law available only to residents of that former Contracting State.

**ARTICLE XX**

1. The present Convention shall be ratified and the instruments of ratification shall be exchanged at Tokyo as soon as possible.

2. The present Convention shall enter into force on the date of exchange of instruments of ratification and shall be applicable -

(a) in Singapore: as respects tax for the years of assessment beginning on or after the first day of January of the calendar year in which the exchange of instruments of ratification takes place; and

(b) in Japan: as respects tax for the taxable years beginning on or after the first day of January of the calendar year in which the exchange of instruments of ratification takes place.

3. Either of the Contracting States may terminate the present Convention at any time after a period of five years from the date on which the present Convention enters into force, by giving to the other Contracting State notice of termination, provided that such notice shall be given on or before the 30th day of June, and, in such event, the present Convention shall cease to be effective -

(a) in Singapore: as respects tax for the years of assessment beginning on or after the first day of January of the calendar year next following that in which the notice is given; and

(b) in Japan: as respects tax for the taxable years beginning on or after the first day of January of the calendar year next following that in which the notice is given.

IN WITNESS WHEREOF the abovementioned Plenipotentiaries have signed the present Convention.

DONE in duplicate at Singapore, this eleventh day of April, one thousand nine hundred and sixty-one in the English language.

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| **For the Government of the State of Singapore:** | **For the Government of Japan:** |
| **GOH KENG SWEE** | **KENSAKU MAEDA** |

**EXCHANGE OF NOTES**

Singapore, April 11, 1961

Excellency,

With reference to Article V of the Convention between the Government of Japan and the Government of the State of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed today, I have the honour to confirm, on behalf of the Government of Japan, the following understandings reached between the two Governments:

1. Both Governments shall undertake to enter into negotiation for the revision of Article V of the present Convention as soon as possible after amendments are made to taxation law of either Contracting State relevant to the Article.

2. With regard to the above revision, both Governments shall accord to the other Contracting State treatment not less favourable than that accorded to any third country in matters relating to the tax on profits derived from the operation of ships or aircraft.

I have further the honour to request Your Excellency to be good enough to confirm the foregoing understandings on behalf of Your Excellency's Government.

I avail myself of this opportunity to renew to Your Excellency assurances of my highest consideration.

KENSAKU MAEDA

The Honourable
Dr. Goh Keng Swee,
Minister for Finance, Singapore,
Plenipotentiary of the State of Singapore.

Singapore, April 11, 1961

Excellency,

I have the honour to acknowledge receipt of Your Excellency's Note of today's date which reads as follows:

> "With reference to Article V of the Convention between the Government of Japan and the Government of the State of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed today, I have the honour to confirm, on behalf of the Government of Japan, the following understandings reached between the two Governments:
>
> 1. Both Governments shall undertake to enter into negotiation for the revision of Article V of the present Convention as soon as possible after amendments are made to taxation law of either Contracting State relevant to the Article.
>
> 2. With regard to the above revision, both Governments shall accord to the other Contracting State treatment not less favourable than that accorded to any third country in matters relating to the tax on profits derived from the operation of ships or aircraft.
>
> I have further the honour to request Your Excellency to be good enough to confirm the foregoing understandings on behalf of Your Excellency's Government."

I have further the honour to confirm the understandings contained in Your Excellency's Note, on behalf of the Government of the State of Singapore.

I avail myself of this opportunity to renew to Your Excellency assurances of my highest consideration.

GOH KENG SWEE

His Excellency
Mr. Kensaku Maeda,
Consul-General of Japan at Singapore,
Plenipotentiary of Japan.