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

Date of Conclusion: 13 April 2011

Entry into Force: 2 February 2012

Effective Date: 1 January 2013

NOTE

Singapore and Spain both signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (commonly known as the "Multilateral Instrument" or in short, the "MLI") on 7 June 2017. Singapore and Spain ratified the MLI on 21 December 2018 and 28 September 2021 respectively.

More information on the MLI is available at https://www.iras.gov.sg/taxes/international-tax/international-tax-agreements-concluded-by-singapore/multilateral-convention-to-implement-tax-treaty-related-measures-to-prevent-base-erosion-and-profit-shifting

The Income Tax (Singapore – Spain) (Avoidance of Double Taxation Agreement) (Modifications to Implement Multilateral Instrument) Order 2022, which took effect on 1 July 2022, implements the applicable provisions of the MLI to the articles of this Agreement. For informational purposes, details of the amendments to this Agreement are shown in Annex A.

The Republic of Singapore and the Kingdom of Spain, desiring to conclude an Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, have agreed as follows:

CHAPTER I - SCOPE OF THE AGREEMENT

Article 1 - Persons Covered

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

Article 2 - Taxes Covered

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

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

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

(a) in Singapore:

- the income tax

(hereinafter referred to as "Singapore tax");

(b) in Spain:

(i) the income tax on individuals;
(ii) the corporation tax;
(iii) the income tax on non residents; and
(iv) the local taxes on income

(hereinafter referred to as “Spanish tax”).

4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their taxation laws.

CHAPTER II - DEFINITIONS

Article 3 - General Definitions

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

(a) the term "Singapore" means the Republic of Singapore and, when used in a geographical sense, includes its land territory, internal waters and territorial sea, as well as any maritime area situated beyond the territorial sea which has been or might in the future be designated under its national law, in accordance with international law, as an area within which Singapore may exercise sovereign rights or jurisdiction with regards to the sea, the sea-bed, the subsoil and the natural resources;

(b) the term “Spain” means the Kingdom of Spain and, when used in a geographical sense, means the territory of the Kingdom of Spain, including inland waters, the air space, the territorial sea and any area outside the territorial sea upon which, in accordance with international law and on application of its domestic legislation, the Kingdom of Spain exercises or may exercise in the future jurisdiction or sovereign rights with respect to the seabed, its subsoil and superjacent waters, and their natural resources;

(c) the terms “a Contracting State” and “the other Contracting State” mean Spain or Singapore as the context requires;

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

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

(f) the term ‘’enterprise’’ applies to the carrying on of any business;

(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 "international traffic" means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(i) the term "competent authority" means:

(i) in Singapore, the Minister for Finance or his authorised representative;

(ii) in Spain, the Minister of Economy and Finance or his authorised representative;

(j) the term "national", in relation to a Contracting State means:

(i) any individual possessing the nationality or citizenship of that Contracting State;

(ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State.

(k) the term ’’business’’ includes the performance of professional services and of other activities of an independent character.

2. As regards the application of the Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4 - Resident

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision, local authority or statutory body thereof.

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

(a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);

(b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;

(c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;

(d) in any other case, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

Article 5 - Permanent Establishment

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

2. The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop; and

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

3. A building site, a construction, assembly or installation project or on-site supervisory activities in connection therewith constitutes a permanent establishment only if such site, project or activities lasts more than twelve months.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

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

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

(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

CHAPTER III - TAXATION OF INCOME

Article 6 - Income From Immovable Property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships 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. Where the ownership of shares or other rights directly or indirectly entitles the owner of such shares or rights to the enjoyment of immovable property, the income from the direct use, letting or use in any other form of such right to the enjoyment may be taxed in the Contracting State in which the immovable property is situated.

5. The provisions of paragraphs 1, 3 and 4 shall also apply to the income from immovable property of an enterprise.

Article 7 - Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. 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 preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

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

Article 8 - Shipping And Air Transport

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

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

4. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic shall include:

(a) profits from the rental on a bareboat basis of ships or aircraft; and

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

where such rental or such use, maintenance or rental, as the case may be, is an ancillary activity of an enterprise engaged in the operation of ships or aircraft in international traffic.

Article 9 - Associated Enterprises

1. Where

(a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

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

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

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

Article 10 - Dividends

1. Dividends paid by a company which is a resident, or distributions made out of a real estate investment trust organised under the laws, of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends or distributions may also be taxed in, and according to the laws of, the Contracting State of which the company paying the dividends is a resident or under whose laws the real estate investment trust making the distributions has been organized, but if the beneficial owner of the dividends or distributions is a resident of the other Contracting State, the tax so charged shall not exceed:

(a) in the case of dividends:

(i) 0 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends;

(ii) 5 per cent of the gross amount of the dividends in all other cases;

(b) in the case of distributions made out of the real estate investment trust:

5 per cent of the gross amount of the distributions if the beneficial owner of the distributions holds, directly or indirectly, less than 10 per cent of the value of the capital in such trust.

This paragraph shall not affect the taxation of the profits of the company or the real estate investment trust out of which the dividends are paid or the distributions are made.

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

4. 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, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11 - Interest

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

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

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if the recipient is the beneficial owner of the interest and:

(a) is that State, the central bank, a political subdivision, local authority or statutory body thereof;

(b) the interest is paid by the State in which the interest arises or by a political subdivision, a local authority or statutory body thereof;

(c) the interest is paid by a financial institution of a Contracting State to a financial institution of the other Contracting State;

(d) is a pension fund that is approved for tax purposes by that State and the income of that fund is generally exempt from tax in that State;

(e) the interest is paid in respect of a loan, debt-claim or credit that is:

(i) owed to, or made, provided, guaranteed or insured by an export financing agency of that State, political subdivision, local authority or statutory body thereof or

(ii) guaranteed or insured by that State, a political subdivision, local authority or statutory body thereof;

(f) is an institution wholly or mainly owned by the Contracting State as may be agreed from time to time between the competent authorities of the Contracting States, and

(g) is the Government of Singapore Investment Corporation Pte Ltd.

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

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

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

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

Article 12 - Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other 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 State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.

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

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

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

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

Article 13 - Capital Gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) may be taxed in that other Contracting State.

3. Gains from the alienation of ships or aircraft operated in international traffic, or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. Gains from the alienation of shares or other rights, which directly or indirectly entitle the owner of such shares or rights to the enjoyment of immovable property situated in a Contracting State, may be taxed in that State.

5. Gains derived by a resident of a Contracting State from the alienation of shares or comparable interests deriving more than 50% of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State. However, this paragraph shall not apply to:

(a) gains derived from the alienation of shares of a company quoted on a recognised stock exchange of one or both Contracting States;

(b) gains derived from the alienation of units of a real estate investment trust quoted on a recognised stock exchange of one or both Contracting States where the alienator has not held more than 25 per cent of the units of such trust at any time during the 24-month period immediately preceding the alienation of such units; and

(c) gains derived from the alienation of shares of a company or interest in a partnership whose immovable property in which it carries on an industrial business is more than 50 per cent of its asset value.

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

Article 14 - Income from Employment

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; and

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

(c) the remuneration is not borne by a permanent establishment which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 15 - Directors' Fees

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

Article 16 - Artistes And Sportsperson

1. Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

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

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, income derived by an artiste or a sportsperson shall be exempt in the Contracting State in which the activities of the artiste or sportsperson are exercised, if such activities are fully or substantially supported by public funds of one or both of the Contracting States or political subdivisions or local authorities or statutory bodies thereof and carried on under a co-operation agreement between the two Contracting States.

Article 17 - Pensions

Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 18 - Government Service

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

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

(i) is a national of that State; or

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

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

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

3. The provisions of Articles 14, 15, 16, and 17 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision, or a local authority thereof, or a statutory body.

Article 19 - Students

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 20 - Other Income

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.

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

3. Notwithstanding the provisions of paragraph 1, any amount withdrawn by a resident of a Contracting State from a supplementary saving scheme constituted in the other Contracting State may be taxable in the second-mentioned Contracting State, provided that:

(a) the second-mentioned Contracting State has granted a deduction on the contributions made to that supplementary saving scheme; and

(b) the amount withdrawn is not covered by Article 17 (Pensions).

CHAPTER IV - METHODS FOR ELIMINATION OF DOUBLE TAXATION

Article 21 - Elimination Of Double Taxation

1. In Spain, double taxation shall be avoided following either the provisions of its internal legislation or the following provisions in accordance with the internal legislation of Spain:

(a) Where a resident of Spain derives income which, in accordance with the provisions of this Agreement, may be taxed in Singapore, Spain shall allow:

(i) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Singapore;

(ii) the deduction of the underlying corporation tax shall be given in accordance with the internal legislation of Spain.

Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Singapore.

(b) Where in accordance with any provision of the Agreement income derived by a resident of Spain is exempt from tax in Spain, Spain may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

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

(a) Where a resident of Singapore derives income from Spain which, in accordance with the provisions of this Agreement, may be taxed in Spain, 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 Spanish tax paid, whether directly or by deduction, as a credit against the Singapore tax payable on the income of that resident.

(b) Where such income is a dividend paid by a company which is a resident of Spain to a resident of Singapore which is a company owning directly or indirectly not less than 10 per cent of the share capital of the first-mentioned company, the credit shall take into account the Spanish tax paid by that company on the portion of its profits out of which the dividend is paid.

(c) Where a resident of Singapore derives income from Spain, Singapore shall, subject to the conditions of exemption for income received from outside Singapore provided for in Sections 13(7A), 13(8) and 13(12) of the Singapore Income Tax Act (Chapter 134)(revised edition 2008) being satisfied, exempt such income from tax in Singapore.

CHAPTER V - SPECIAL PROVISIONS

Article 22 - Non-Discrimination

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

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

3. Nothing in this Article shall be construed as obliging a Contracting State to grant to:

(a) residents of the other Contracting State any personal allowances, reliefs and reductions for tax purposes which it grants to its own residents; or

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

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

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

6. The provisions of this Article shall apply to the taxes which are the subject of this Agreement.

Article 23 - Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 22, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

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

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

Article 24 - Exchange Of Information

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

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

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

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

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

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

Article 25 - Members Of Diplomatic Missions And Consular Posts

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

CHAPTER VI - FINAL PROVISIONS

Article 26 - Entry Into Force

1. The Governments of the Contracting States shall notify each other, through diplomatic channels that the internal procedures required by each Contracting State for the entry into force of this Agreement have been complied with.

2. The Agreement shall enter into force after the period of three months following the date of receipt of the later of the notifications referred to in paragraph 1 and its provisions shall have effect:

(a) in the case of Spain:

(i) in respect of tax withheld at the source on amounts paid or credited to non-residents, on or after 1 January of the calendar year next following the date on which the Agreement enters into force;

(ii) in respect of other taxes, for taxation years beginning on or after 1 January of the calendar year next following the date on which the Agreement enters into force; and

(iii) in all other cases, on or after 1 January of the calendar year next following the date on which the Agreement enters into force;

(b) in the case of Singapore:

(i) in respect of tax chargeable for any year of assessment beginning on or after 1 January in the second calendar year following the year in which the Agreement enters into force;

(ii) in all other cases, on or after 1 January of the calendar year next following the date on which the Agreement enters into force.

Article 27 - Termination

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year beginning on or after the expiration of a period of five years from the date of its entry into force. In such event, the Agreement shall cease to have effect:

(a) in the case of Spain:

(i) in respect of tax withheld at the source on amounts paid or credited to non-residents, after the end of that calendar year;

(ii) in respect of other taxes, for taxation years beginning after the end of that calendar year; and

(iii) in all other cases, after the end of that calendar year;

(b) in the case of Singapore:

(i) in respect of tax chargeable for any year of assessment beginning on or after 1 January in the second calendar year following the year in which the notice is given;

(ii) in all other cases, after the end of that calendar year.

In witness whereof the undersigned, duly authorised thereto, have signed this Agreement.

Done in duplicate at Singapore this 13th day of April 2011, in the Spanish and English languages, both texts being equally authentic.

For the Republic of Singapore	**For the Kingdom of Spain**
Lee Yi Shyan **Minister of State,** **Ministry of Manpower and** **Ministry of Trade and Industry**	**Miguel Sebastián Gascón** **Minister of Industry, Tourism and Trade**

PROTOCOL

At the moment of signing the Agreement between the Republic of Singapore and the Kingdom of Spain 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 be an integral part of the Agreement.

1. Entitlement to treaty benefits

(a) This Agreement shall not be interpreted to mean that a Contracting State is prevented from applying its domestic legal provisions on the prevention of tax evasion or tax avoidance.

(b) The Contracting States understand that their domestic rules and procedures with respect to the abuses of law (including tax treaties) may be applied to the treatment of such abuses.

(c) This Agreement does not prevent the Contracting States from applying domestic Controlled Foreign Company rules.

(d) The provisions of Articles 10, 11 and 12 shall not apply if it was the main purpose of any person concerned with the creation or assignment of shares or other rights in respect of which the dividends are paid, the creation or assignment of the debt-claim in respect of which the interest is paid, the creation or assignment of rights in respect of which the royalties are paid, to take advantage of these Articles by means of that creation or assignment.

2. With reference to this Agreement:

The term “statutory body” means a body constituted by any statute of a Contracting State or political subdivision or local authority thereof, and performing functions which would otherwise be performed by the Government of that Contracting State.

3. With reference to paragraph 2 of Article 10 (Dividends) and paragraph 5 (b) of Article 13 (Capital Gains), it is understood that the term “real estate investment trust” means:

(a) In Singapore, a trust that is constituted as a collective investment scheme authorised under section 286 of the Securities and Futures Act (Cap. 289) and listed on the Singapore Exchange, and that invests or proposes to invest in immovable property and immovable property-related assets;

(b) In Spain, the “Sociedades Anónimas Cotizadas de Inversión en el Mercado Inmobiliario (SOCIMI)” regulated by Law 11/2009.

4. With reference to this Agreement:

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

(b) Sub-paragraph (a) above shall not be construed to apply:

(i) when Singapore exempts income referred to in paragraph 2(c) of Article 21; in such case, the exemption or reduction of tax to be allowed under this Agreement in Spain shall apply to the amount of income from sources in Spain that is exempted from tax in Singapore; and

(ii) to income derived by the Government of Singapore and any statutory body thereof, Government of Singapore Investment Corporation Pte Ltd, the central bank of Singapore or any persons as may be agreed between the competent authorities of the Contracting States.

5 With reference to Article 24 (Exchange of Information):

(a) Each Contracting State shall ensure that its competent authorities for the purposes specified in Article 24 (Exchange of Information) have the authority to obtain and provide upon request information regarding the legal and beneficial ownership of any person.

(b) The competent authority of a Contracting State shall forward the requested information as promptly as possible to the other Contracting State.

(c) The time elapsed from the request of the information until the receipt of the information by the requesting Contracting State will not be considered in computing the applicable time-limits established by the Spanish tax legislation in respect of fiscal tax administration proceedings.

6 With reference to Article 26 (Entry into Force), it is understood that the provisions of Article 24 (Exchange of Information) of the Agreement allow for the exchange of information for any taxable period in accordance with the law of the requesting Contracting State.

In witness whereof the undersigned, duly authorised thereto, have signed this Protocol.

Done in duplicate at Singapore this 13th day of April 2011, in the Spanish and English languages, both texts being equally authentic.

For the Republic of Singapore	**For the Kingdom of Spain**
Lee Yi Shyan **Minister of State,** **Ministry of Manpower and** **Ministry of Trade and Industry**	**Miguel Sebastián Gascón** **Minister of Industry, Tourism and Trade**

ANNEX A

Effects of the MLI on this Agreement

1. Deletion and replacement of Preamble

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

"The Republic of Singapore and the Kingdom of Spain,

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

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

Have agreed as follows:".

2. New Articles 23A to 23H

The following articles shall be inserted immediately after Article 23 (Mutual Agreement Procedure). However, the articles shall not apply to this Agreement if a Contracting State raises an objection under Article 28(2)(b) of the MLI to the reservations that had been made by the other Contracting State under Article 28(2)(a) of the MLI. Such an objection may be raised by Singapore by 27 September 2022.

"**Article 23A – Mandatory Binding Arbitration**

1. Where:

(a) under Article 23 (Mutual Agreement Procedure), a person has presented a case to the competent authority of a Contracting State on the basis that the actions of one or both of the Contracting States have resulted for that person in taxation not in accordance with the provisions of the Agreement; and

(b) the competent authorities are unable to reach an agreement to resolve that case pursuant to Article 23 (Mutual Agreement Procedure) within a period of two years beginning on the start date referred to in paragraph 8 or 9, as the case may be (unless, prior to the expiration of that period the competent authorities of the Contracting States have agreed to a different time period with respect to that case and have notified the person who presented the case of such agreement),

any unresolved issues arising from the case shall, if the person so requests in writing, be submitted to arbitration in the manner described in this Article and Articles 23B to 23H, 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 23C (Confidentiality of Arbitration

Proceedings) and 23G (Costs of Arbitration Proceedings)). In such a case, a new request for arbitration may be made unless the competent authorities agree that such a new request should not be permitted.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) the latest date on which the competent authorities that requested additional information have notified the person who presented the case and the other competent authority pursuant to sub paragraph (a) of paragraph 7; and

(b) the date that is three calendar months after both competent authorities have received all information requested by either competent authority from the person who presented the case.

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

10. The competent authorities of the Contracting States shall by mutual agreement (pursuant to Article 23 (Mutual Agreement Procedure)) settle the mode of application of the provisions contained in this Article and Articles 23B to 23H, 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 23B to 23H 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 provisions of Singapore's law (including legislative provisions, case law, judicial doctrines and penalties) that are analogous to those governing the cases in sub

paragraph (c) or (d), including any subsequent provisions which replace, amend or update those provisions. The competent authority of Singapore will consult with the competent authority of Spain in order to specify any such analogous provisions which exist under Singapore law pursuant to paragraph 10;

(c) to any case involving the application of anti-abuse rules in the Agreement as modified by the Convention or domestic law. For this purpose, anti-abuse rules contained in domestic law shall include the cases dealt with in Articles 15 and 16 of the General Tax Law (Law 58 of 17th December 2003). Any subsequent rules replacing, amending or updating these rules would also be comprehended. The Kingdom of Spain shall notify the Depositary of any such subsequent rules; or

(d) to any case involving conduct for which a person directly affected by the case has been subject, by a final ruling resulting from judicial or administrative proceedings, to a penalty for tax fraud, wilful default or gross negligence. For these purposes, penalties for tax fraud, wilful default or gross negligence shall be understood as those regulated under Articles:

(i) 305 and 305 a of the Spanish Criminal Code.

(ii) 191, 192 and 193 of the General Tax Law (Law 58 of 17 December 2003), provided that a qualification criterion referred to in Article 184 of said General Tax Law applies;

(iii) 18.13.2º of the Corporate Income Tax Law (Law 27 of 27 November 2014), provided that a qualification criterion referred to in Article 184 of the General Tax Law (Law 58 of 17 December 2003) applies. For these purposes, any reference to “tax return” in said Article 184 of the General Tax Law shall be understood as references made to transfer pricing documentation.

Notwithstanding the provisions of subparagraph (iii), penalties applied for incomplete provision of transfer pricing documentation, where the quantification or determination of market value is not seriously hampered, shall not be considered as penalty for tax fraud, wilful default or gross negligence.

Any subsequent provisions replacing, amending or updating these provisions would also be comprehended. The Kingdom of Spain shall notify the Depositary of any such subsequent provisions.

(e) to transfer pricing cases involving items of income or capital that are not taxed in a Contracting State either because they are not included in the taxable base in that Contracting State or because they are subject to an exemption or zero tax rate provided only under the domestic tax law of that Contracting State that is specific to that item of income or capital.

(f) to cases eligible for arbitration under the Convention on the Elimination of Double Taxation in Connection with the Adjustment of Profits of Associated Enterprises (90/436/EEC), as amended, or any subsequent regulation.

(g) to cases which the competent authorities of both Contracting States agree are not suitable for resolution through arbitration. Such agreement shall be reached before the date on which arbitration proceedings would otherwise have begun and shall be notified to the person who presented the case.

13. This Article and Articles 23B to 23H —

(a) shall have effect with respect to cases presented to the competent authority of a Contracting State under Article 23 on or after 1 July 2022; and

(b) shall apply to a case presented to the competent authority of a Contracting State under Article 23 prior to 1 July 2022 only to the extent that the competent authorities of both Contracting States agree that it will apply to that specific case.

Article 23B – Appointment of Arbitrators

1. Except to the extent that the competent authorities of the Contracting States mutually agree on different rules, paragraphs 2 through 4 shall apply for the purposes of Articles 23A to 23H.

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 23A (Mandatory Binding Arbitration). The two panel members so appointed shall, within 60 days of the latter of their appointments, appoint a third member who shall serve as Chair of the arbitration panel. The Chair shall not be a national or resident of either Contracting State.

(c) Each member appointed to the arbitration panel must be impartial and independent of the competent authorities, tax administrations, and ministries of finance of the Contracting States and of all persons directly affected by the case (as well as their advisors) at the time of accepting an appointment, maintain his or her impartiality and independence throughout the proceedings, and avoid any conduct for a reasonable period of time thereafter which may damage the appearance of impartiality and independence of the arbitrators with respect to the proceedings.

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

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

Article 23C – Confidentiality of Arbitration Proceedings

1. Solely for the purposes of the application of Articles 23A to 23H and 24 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 24 (Exchange of Information).

2. The competent authorities of the Contracting States shall ensure that members of the arbitration panel and their staff agree in writing, prior to their acting in an arbitration proceeding, to treat any information relating to the arbitration proceeding consistently with the confidentiality and nondisclosure obligations described in Article 24 (Exchange of Information) and under the applicable laws of the Contracting States.

Article 23D – Resolution of a Case Prior to the Conclusion of the Arbitration

For the purposes of Articles 23 and 23A to 23H, 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 23E – Type of Arbitration Process

1. Except to the extent that the competent authorities of the Contracting States mutually agree on different rules, the following rules shall apply with respect to an arbitration proceeding pursuant to Articles 23A to 23H:

(a) After a case is submitted to arbitration, the competent authority of each Contracting State shall submit to the arbitration panel, by a date set by agreement, a proposed resolution which addresses all unresolved issue(s) in the case (taking into account all agreements previously reached in that case between the competent authorities of the

Contracting States). The proposed resolution shall be limited to a disposition of specific monetary amounts (for example, of income or expense) or, where specified, the maximum rate of tax charged pursuant to the Agreement, for each adjustment or similar issue in the case. In a case in which the competent authorities of the Contracting States have been unable to reach agreement on an issue regarding the conditions for application of a provision of the Agreement (hereinafter referred to as a "threshold question"), such as whether an individual is a resident or whether a permanent establishment exists, the competent authorities may submit alternative proposed resolutions with respect to issues the determination of which is contingent on resolution of such threshold questions.

(b) The competent authority of each Contracting State may also submit a supporting position paper for consideration by the arbitration panel. Each competent authority that submits a proposed resolution or supporting position paper shall provide a copy to the other competent authority by the date on which the proposed resolution and supporting position paper were due. Each competent authority may also submit to the arbitration panel, by a date set by agreement, a reply submission with respect to the proposed resolution and supporting position paper submitted by the other competent authority. A copy of any reply submission shall be provided to the other competent authority by the date on which the reply submission was due.

(c) The arbitration panel shall select as its decision one of the proposed resolutions for the case submitted by the competent authorities with respect to each issue and any threshold questions, and shall not include a rationale or any other explanation of the decision. The arbitration decision will be adopted by a simple majority of the panel members. The arbitration panel shall deliver its decision in writing to the competent authorities of the Contracting States. The arbitration decision shall have no precedential value.

2. Prior to the beginning of arbitration proceedings, the competent authorities of the Contracting States shall ensure that each person that presented the case and their advisors agree in writing not to disclose to any other person any information received during the course of the arbitration proceedings from either competent authority or the arbitration panel. The mutual agreement procedure under Article 23, as well as the arbitration proceeding under Articles 23A to 23H, 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 23F – Agreement on a Different Resolution

Notwithstanding paragraph 4 of Article 23A (Mandatory Binding Arbitration), an arbitration decision pursuant to Articles 23A to 23H shall not be binding on the Contracting States and shall not be implemented if the competent authorities of the Contracting States agree on a different resolution of all unresolved issues within three calendar months after the arbitration decision has been delivered to them.

Article 23G – Costs of Arbitration Proceedings

In an arbitration proceeding under Articles 23A to 23H, 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 23H – Compatibility

1. Any unresolved issue arising from a mutual agreement procedure case otherwise within the scope of the arbitration process provided for in this Article and Articles 23A to 23G 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 23A to 23G shall affect the fulfilment of wider obligations with respect to the arbitration of unresolved issues arising in the context of a mutual agreement procedure resulting from other conventions to which the Contracting States are or will become parties.".

3. <u>Amendment of Paragraph 1 of Protocol</u>

Sub-paragraph (d) of paragraph 1 of the Protocol is deleted and replaced by the following paragraph:

"(d) 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.".

4. <u>Entry into effect of the MLI</u>

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

(a) for paragraph 2 of this Annex on the arbitration provisions, with respect to any tax paid, deemed paid or liable to be paid, before, on or after 1 July 2022;

(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 2023; 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 January 2023.