



Double Taxation Avoidance Agreement between Singapore and Belgium

Entered into force on November 27, 2008

DEZAN SHIRA & ASSOCIATES

Corporate Establishment, Tax, Accounting & Payroll Throughout Asia

This document was downloaded from ASEAN Briefing (www.aseanbriefing.com) and was compiled by the tax experts at Dezan Shira & Associates (www.dezshira.com).

Dezan Shira & Associates is a specialist foreign direct investment practice, providing corporate establishment, business advisory, tax advisory and compliance, accounting, payroll, due diligence and financial review services to multinationals investing in emerging Asia.

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

Date of Conclusion: 6 November 2006

Entry into Force: 27 November 2008

Effective Date: 1 January 2009

NOTE

There was an earlier Agreement signed between the Government of the Republic of Singapore and the Government of the Kingdom of Belgium for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. The text of this Agreement which was signed on 8 February 1972 is shown in Annex A.

A supplementary agreement signed on 10 December 1996 entered into force on 5 May 2004.

This supplementary agreement is incorporated into the main text of the treaty in Annex A. New articles introduced by this supplementary agreement are marked with a hex (#) and those amended articles are marked with an asterisk (*).

The original text of those articles amended by this supplementary agreement is shown in the Annex B.

The Government of the Republic of Singapore and the Government of the Kingdom of Belgium,

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

Have agreed as follows:

Article 1 – PERSONS COVERED

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

Article 2 – TAXES COVERED

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

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

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

(a) in the case of Singapore:

- the income tax

(hereinafter referred to as "Singapore tax");

(b) in the case of Belgium :

- (i) the individual income tax;
- (ii) the corporate income tax;
- (iii) the income tax on legal entities;
- (iv) the income tax on non-residents;

including the prepayments and the surcharges on these taxes and prepayments;
(hereinafter referred to as "Belgian 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.

Article 3 – GENERAL DEFINITIONS

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

- (a) the term "Belgium" means the Kingdom of Belgium; used in a geographical sense, it means the territory of the Kingdom of Belgium, including the territorial sea and any other area in the sea within which the Kingdom of Belgium, in accordance with international law, exercises sovereign rights or jurisdiction;
- (b) the term "Singapore" means the Republic of Singapore and when used in a geographical sense, the term "Singapore" includes the territorial waters of Singapore and any area extending beyond the limits of the territorial waters of Singapore, and the sea-bed and subsoil of any such area, which has been or may hereafter be designated under the laws of Singapore and in accordance with international law as an area over which Singapore has sovereign rights for the purposes of exploring and exploiting the natural resources, whether living or non-living;
- (c) the term "person" includes an individual, a company and any other body of persons;
- (d) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes in the Contracting State of which it is a resident;
- (e) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (f) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (g) the term "competent authority" means:
 - (i) in the case of Belgium, the Minister of Finance or his authorised representative, and
 - (ii) in the case of Singapore, the Minister for Finance or his authorised representative;
- (h) the term "national", in relation to a Contracting State, means:
 - (i) any individual possessing the nationality 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.

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 or local authority thereof or any statutory body.

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. If its place of effective management cannot be determined, the competent authorities of the Contracting States shall settle the question by mutual agreement.

Article 5 – PERMANENT ESTABLISHMENT

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

2. The term "permanent establishment" includes especially:

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

3. The term "permanent establishment" also includes:

- (a) a building site, a construction, installation or assembly project, or supervisory activities connected therewith, but only where such site, project or activities last for more than 12 months;
- (b) the furnishing of services, including consultancy services, by an enterprise of a Contracting State through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the other Contracting State for a period or periods aggregating more than 183 days in any twelve month period commencing or ending in the taxable period concerned.

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

- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

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

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

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

Article 6 – INCOME FROM IMMOVABLE PROPERTY

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

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.

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

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

Article 7 – BUSINESS PROFITS

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

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

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

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

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

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

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

Article 8 – SHIPPING AND AIR TRANSPORT

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

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

3. For the purpose of this Article, profits from the operation of ships or aircraft in international traffic mean profits derived from the transportation by sea or air of passengers or cargo carried on by the owners or lessees or charterers of the ships or aircraft, including:

- (a) profits from the leasing on a bareboat basis of ships or aircraft where such leasing is ancillary to the operation of ships or aircraft in international traffic;
- (b) profits from the use, maintenance or lease of containers (including trailers and related equipment for the transport of containers), used for the transport of goods or merchandise, where such use, maintenance or lease is ancillary to the operation of ships or aircraft in international traffic; and
- (c) interest on funds connected with 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 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 such an adjustment as it considers appropriate 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 of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

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

- (a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 10 per cent of the capital of the company paying the dividends;
- (b) 15 per cent of the gross amount of the dividends in all other cases.

Notwithstanding the preceding provisions of this paragraph, dividends shall not be taxed in the Contracting State of which the company paying the dividends is a resident if the beneficial owner of the dividends is a company which is a resident of the other Contracting State and which at the moment of the payment of the dividends holds, for an uninterrupted period of at least twelve months, shares representing directly at least 25 per cent of the capital of the company paying the dividends.

3. Paragraph 2 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

4. Notwithstanding the provisions of paragraph 2, dividends paid by a company which is a resident of Belgium to the Government of Singapore shall be exempt from Belgian tax.

5. For the purposes of paragraph 4, the term "Government of Singapore" shall include:

- (a) the Monetary Authority of Singapore;
- (b) the Government of Singapore Investment Corporation Pte Ltd;
- (c) a statutory body; and
- (d) any institution wholly or mainly owned by the Government of Singapore as may be agreed from time to time between the competent authorities of the Contracting States.

6. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident. This term also means income paid even in the form of interest by a company that is a resident of Belgium, where such income is subjected to the same taxation treatment as income from shares by Belgian law.

7. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

9. (a) Under the current Singapore laws, where dividends are paid by a company which is a resident of Singapore to a resident of Belgium who is the beneficial owner of such dividends, there is no tax in Singapore which is chargeable on dividends in addition to the tax chargeable in respect of the profits or income of the company.

(b) If, subsequent to the signing of the Agreement, Singapore imposes a tax on dividends in addition to the tax chargeable in respect of the profits or income of a company which is a resident of Singapore, such tax may be charged but the tax so charged on the dividends derived by a resident of Belgium who is the beneficial owner of such dividends shall be in accordance with the provisions of paragraph 2. However in such case dividends paid by a company which is a resident of Singapore shall be exempt from Singapore tax if the beneficial owner is:

- (i) Belgium or a political subdivision or local authority thereof;
- (ii) a statutory body;
- (iii) the National Bank of Belgium;
- (iv) any institution wholly or mainly owned by Belgium or by a political subdivision or local authority thereof as may be agreed from time to time between the competent authorities of the Contracting States.

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 derived and beneficially owned by a banking enterprise of a Contracting State shall be exempt from tax in the other Contracting State if the payer is a banking enterprise of the other State.

4. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be exempt from tax in that State, if such interest is paid to:

(a) in the case of Belgium:

- (i) Belgium or a political subdivision or local authority thereof;
- (ii) a statutory body;
- (iii) the National Bank of Belgium;
- (iv) any institution wholly or mainly owned by Belgium or by a political subdivision or local authority thereof as may be agreed from time to time between the competent authorities of the Contracting States;

(b) in the case of Singapore, the Government of Singapore including:

- (i) the Monetary Authority of Singapore;
- (ii) the Government of Singapore Investment Corporation Pte Ltd;
- (iii) a statutory body; and

- (iv) any institution wholly or mainly owned by the Government of Singapore as may be agreed from time to time between the competent authorities of the Contracting States.

5. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. However, the term "interest" shall not include for the purpose of this Article penalty charges for late payment or interest regarded as dividends under the second sentence of paragraph 6 of Article 10.

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 State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

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

Article 12 – ROYALTIES

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

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the law 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:

- (a) in the case of royalties referred to in sub-paragraph (a) of paragraph 3 of this Article, 5 per cent of the gross amount of the royalties; and
- (b) in the case of royalties referred to in sub-paragraph (b) of paragraph 3 of this Article, 5 per cent of the adjusted amount of the royalties. For the purpose of this sub-paragraph "the adjusted amount" means 60 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means:

- (a) 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 computer 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 information concerning industrial, commercial or scientific experience; and
- (b) payments of any kind received as a consideration for the use of, or the right to use, any industrial, commercial or scientific equipment.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

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

Article 13 – CAPITAL GAINS

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

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains derived by a resident of a Contracting State 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 that State.

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

Article 14 – INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances when such income may also be taxed in the other Contracting State:

- (a) if he has a fixed base regularly available to him in the other State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other State; or
- (b) if his stay in the other State is for a period or periods exceeding in the aggregate 183 days in any twelve month period commencing or ending in the taxable period concerned; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.

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

Article 15 – DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the taxable period concerned; and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State shall be taxable only in that State. However, if the remuneration is derived by a resident of the other Contracting State, it may also be taxed in that other State.

Article 16 – DIRECTORS’ FEES

1. Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or a similar organ of a company which is a resident of the other Contracting State may be taxed in that other State. In the case of a company which is a resident of Belgium, this provision shall also apply to payments derived in respect of the discharge of functions which, under the laws of Belgium, are regarded as functions of a similar nature as those exercised by a person referred to in the said provision.

2. Remuneration derived by a person referred to in paragraph 1 from a company which is a resident of a Contracting State in respect of the discharge of day-to-day functions of a managerial or technical, commercial or financial nature, shall be taxable in accordance with the provisions of Article 15, as if such remuneration were remuneration derived by an employee in respect of an employment and as if references to the "employer" were references to the company. This provision shall also apply to remuneration received by a resident of a Contracting State in respect of his day-to-day activity as a partner of a company, other than a company with share capital, which is a resident of Belgium.

Article 17 – ARTISTES AND SPORTSMEN

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

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

Article 18 – PENSIONS

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State. However such pensions and other similar remuneration may also be taxed in the other Contracting State if they arise in that State. This provision shall also apply to pensions and other similar remuneration paid under the social security legislation of a Contracting State or under a public scheme organised by that State in order to supplement the benefits of its social security legislation.

Article 19 – GOVERNMENT SERVICE

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

(b) However, such pension or 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 15, 16, 17 and 18 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 by a statutory body.

Article 20 – STUDENTS

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

Article 21 – OTHER INCOME

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

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing articles of the Agreement and arising in the other Contracting State may be taxed in that other State.

Article 22 – ELIMINATION OF DOUBLE TAXATION

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

- (a) Where a resident of Singapore derives income from Belgium which, in accordance with the provisions of this Agreement, may be taxed in Belgium, 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 Belgian 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 Belgium 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 Belgian tax paid by that company on the portion of its profits out of which the dividend is paid.
- (b) Where a resident of Singapore derives income from Belgium, Singapore shall, subject to the conditions of exemption for income received from outside Singapore provided for in the Singapore Income Tax Act being satisfied, exempt such income from tax in Singapore.

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

- (a) Where a resident of Belgium derives income, not being dividends, interest or royalties, which may be taxed in Singapore in accordance with the provisions of this Agreement, and which is taxed there, Belgium shall exempt such income from tax but may, in calculating the amount of tax on the remaining income of that resident, apply the rate of tax which would have been applicable if such income had not been exempted.

Notwithstanding the provisions of the first sentence of this sub-paragraph and any other provision of the Agreement, Belgium shall, for the determination of the additional taxes established by Belgian municipalities and conurbations, take into account the earned income (*revenus professionnels – beroepsinkomsten*) that is exempted from tax in Belgium in accordance with the first sentence of this sub-paragraph. These additional taxes shall be calculated on the tax which would be payable in Belgium if the earned income in question had been derived from Belgian sources.

- (b) Dividends derived by a company which is a resident of Belgium from a company which is a resident of Singapore, shall be exempt from the corporate income tax in Belgium under the conditions and within the limits provided for in Belgian law.

Where a company which is a resident of Belgium derives from a company which is a resident of Singapore, dividends which are included in its aggregate income for Belgian tax purposes and which are not exempted from the corporate income tax according to the first sentence of this sub-paragraph, Belgium shall deduct from the Belgian corporate income tax relating to these dividends the Singapore tax levied on that part of the profits which has been paid as dividends to the company which is a resident of Belgium. This deduction shall not exceed that part of the Belgian tax which is proportionately relating to these dividends.

- (c) Subject to the provisions of Belgian law regarding the deduction from Belgian tax of taxes paid abroad, where a resident of Belgium derives items of his aggregate income for Belgian tax purposes which are interest or royalties, the Singapore tax levied on that income shall be allowed as a credit against Belgian tax relating to such income.
- (d) Where, in accordance with Belgian law, losses incurred by an enterprise carried on by a resident of Belgium in a permanent establishment situated in Singapore, have been effectively deducted from the profits of that enterprise for its taxation in Belgium, the exemption provided for in sub-paragraph (a) shall not apply in Belgium to the profits of other taxable periods attributable to that establishment to the extent that those profits have also been exempted from tax in Singapore by reason of compensation for the said losses.

Article 23 – NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

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

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

- (a) residents of the other Contracting State any personal allowances, reliefs and reductions for tax purposes on account of civil status or family responsibilities 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 the first-mentioned Contracting State 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. Except where the provisions of paragraph 1 of Article 9, paragraph 8 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

5. 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.

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

Article 24 – MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national. The case must be presented within 3 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.

4. The competent authorities of the Contracting States shall by mutual agreement settle the administrative measures necessary to carry out the provisions of the Agreement.

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

Article 25 – EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement insofar as the taxation thereunder is not contrary to the Agreement. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State, and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Agreement. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 26 – MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

Article 27 – REMITTANCE CLAUSE

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

2. Paragraph 1 shall not be construed to apply when Singapore exempts income received from outside Singapore referred to in paragraph 1 (b) of Article 22. In such a case, the exemption or reduction of tax to be allowed under this Agreement in Belgium shall apply to the full amount of income from sources in Belgium that is exempted from tax in Singapore.

Article 28 – MISCELLANEOUS RULE

Nothing in this Agreement shall prejudice the right of each Contracting State to apply its domestic laws and measures concerning tax avoidance, whether or not described as such, insofar as they do not give rise to taxation contrary to the Agreement.

Article 29 – ENTRY INTO FORCE

1. Each Contracting State shall notify the other Contracting State of the completion of the procedures required by its laws for the bringing into force of this Agreement. The Agreement shall enter into force on the date on which the later of these notifications is received.

2. The provisions of the Agreement shall have effect:

(a) in Belgium:

- (i) with respect to taxes due at source on income credited or payable on or after January 1 of the year next following the year in which the Agreement entered into force;
- (ii) with respect to other taxes charged on income of taxable periods beginning on or after January 1 of the year next following the year in which the Agreement entered into force;

(b) in Singapore:

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.

3. The Convention between the Government of the Republic of Singapore and the Government of the Kingdom of Belgium for the avoidance of double taxation with respect to taxes on income, signed at Singapore on 8 February 1972, as amended by the Supplementary Agreement signed at Singapore on 10 December 1996, shall cease to be effective with respect to the taxes with respect to which the provisions of this Agreement have effect, in accordance with the provisions of paragraph 2.

Article 30 – TERMINATION

This Agreement shall remain in force until terminated by a Contracting State but either Contracting State may terminate the Agreement, through diplomatic channels, by giving to the other Contracting State, written notice of termination not later than the 30th June of any calendar year from the fifth year following that in which the Agreement entered into force. In such event, the Agreement shall cease to have effect:

(a) in Belgium:

- (i) with respect to taxes due at source on income credited or payable on or after January 1 of the year next following the year in which the notice of termination is given;
- (ii) with respect to other taxes charged on income of taxable periods beginning on or after January 1 of the year next following the year in which the notice of termination is given;

(b) in Singapore:

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.

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

DONE in duplicate at Singapore on this 6th day of November 2006 in the English language.

**For the Government of
the Republic of Singapore**

**For the Government of
the Kingdom of Belgium**

**MOSES LEE
COMMISSIONER OF INLAND REVENUE**

**H.E.MR.MARC A.M. CALCOEN
AMBASSADOR OF BELGIUM TO
SINGAPORE**

PROTOCOL

At the moment of signing the Agreement between the Government of the Republic of Singapore and the Government of the Kingdom of Belgium 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 Agreement.

1. Ad paragraph 1 of Article 4, paragraph 5 of Article 10, paragraph 9(b) of Article 10, paragraph 4 of Article 11, paragraphs 1(a), 2(a) and 3 of Article 19:

The term “statutory body” means:

- (a) in the case of Singapore, a body constituted by any statute of Singapore, and performing functions which would otherwise be performed by the Government of Singapore; and
- (b) in the case of Belgium, a body constituted by any statute of Belgium or of a political subdivision or local authority thereof and performing functions which would otherwise be performed by Belgium, a political subdivision or local authority thereof.

The competent authority of a Contracting State shall upon request confirm to the competent authority of the other Contracting State whether a particular entity is a statutory body in the first-mentioned Contracting State.

2. Ad paragraph 1 of Article 15:

It is understood that an employment is exercised in a Contracting State where the employee is physically present in that State when performing the activities for which the employment income is paid.

3. Ad paragraph 1 of Article 23:

Nothing in this Article shall prevent Singapore from applying Section 42A of the Singapore Income Tax Act or similar provisions introduced to replace Section 42A after the date of signature of this Agreement, provided that such similar provisions differ from Section 42A only in minor aspects.

4. Ad paragraph 4 of Article 23:

It is understood that, for the purposes of allowing deduction of a payment of interest to a non-resident, nothing in the said paragraph shall be construed as preventing Singapore from imposing any obligation to withhold tax from such payment of interest, provided that such withholding is in accordance with the provisions of Article 11 of this Agreement.

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

DONE in duplicate at Singapore on this 6th day of November 2006 in the English language.

**For the Government of
the Republic of Singapore**

**For the Government of
the Kingdom of Belgium**

**MOSES LEE
COMMISSIONER OF INLAND REVENUE**

**H.E.MR.MARC A.M. CALCOEN
AMBASSADOR OF BELGIUM TO
SINGAPORE**

ANNEX A

The Government of the Republic of Singapore and the Government of the Kingdom of Belgium,

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

Have agreed as follows:

Article 1 - PERSONAL SCOPE

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

Article 2 - TAXES COVERED

1. This Convention shall apply to taxes on income imposed on behalf of each Contracting State 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 Convention shall apply are, in particular:

(a) in the case of Belgium:

- (i) the individual income tax (l'impôt des personnes physiques);
- (ii) the corporate income tax (l'impôt des sociétés);
- (iii) the income tax on legal entities (l'impôt des personnes morales);
- (iv) the income tax on non-residents (l'impôt des non- résidents);
- (v) the prepayments and additional prepayments (les précomptes et compléments de précomptes); and
- (vi) the surcharges (décimes et centimes additionnels) on any of the taxes referred to in (i) to (v) above, including the communal supplement to the individual income tax (taxe communale additionnelle à l'impôt des personnes physiques);

(hereinafter referred to as "Belgian tax");

(b) in the case of Singapore:

the income tax

(hereinafter referred to as "Singapore tax").

4. The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed 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 which have been made in their respective taxation laws.

5. If by reason of changes made in the taxation law of either Contracting State, it seems desirable to amend any article of this Convention without affecting the general principles thereof the necessary amendments may be made by mutual consent by means of an exchange of diplomatic notes or in any other manner in accordance with their constitutional procedures.

Article 3 - GENERAL DEFINITIONS

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

- (a) the term "Belgium" means the Kingdom of Belgium; it includes any area outside the Belgian national sovereignty which has been or may hereafter be designated, under the Belgian laws concerning the continental shelf and in accordance with international law, as an area within which the rights of Belgium with respect to the sea-bed and sub-soil and their natural resources may be exercised;
- (b) the term "Singapore" means the Republic of Singapore;
- (c) the terms "a Contracting State" and "the other Contracting State" mean Belgium or Singapore, as the context requires;
- (d) the term "tax" means Belgian tax or Singapore tax, as the context requires;
- (e) the term "person" includes an individual, a company and any other body of persons which is treated as an entity for tax purposes;
- (f) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes in the Contracting State of which it is a resident;
- (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 "competent authorities" means in the case of Belgium, the competent authority according to Belgian legislation, and in the case of Singapore, the Minister for Finance or his authorised representative.

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

Article 4 - FISCAL DOMICILE

1. For the purposes of this Convention, the term "resident of a Contracting State" 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 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 in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);
- (b) if the Contracting State in which he has his centre of vital interests can not be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) if he has an habitual abode in both Contracting States or in neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

Article 5 - PERMANENT ESTABLISHMENT

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 for management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, quarry or other place of exploitation of natural resources;
- (g) a farm or plantation;
- (h) a building site or construction or assembly project which exists for more than six months;
- (i) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue within the country for a period or periods aggregating more than 90 days within a twelve-month period.

3. 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.

4. 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 or more than six months in connection with a building site, construction, installation or assembly project which is being undertaken in that other Contracting State.

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 paragraph 6 applies - 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, any 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 the 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 - INCOME FROM IMMOVABLE PROPERTY

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, 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 and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

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

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

Article 7 - BUSINESS PROFITS

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 the determination of 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 in so far 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 (including transportation) 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 - SHIPPING AND AIR TRANSPORT

1. Notwithstanding the provisions of Article 7, 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. Paragraph 1 shall likewise apply to the share in respect of participations in pools of any kind by such enterprise engaged in the operation of ships or aircraft.

4. The term "international traffic" includes traffic between places in one Contracting State in the course of a voyage which extends over more than one country.

Article 9 - ASSOCIATED ENTERPRISES

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 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 - DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other 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 law of that State, but the tax so charged shall not exceed 15 percent 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. Notwithstanding the provisions of paragraph 2, 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 Belgium 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.

Provided that nothing in this paragraph shall affect the provisions of Singapore law under which the tax in respect of a dividend paid by a company which is a resident of Singapore from which Singapore tax has been, or has been deemed to be, deducted may be adjusted by reference to the rate of tax appropriate to the Singapore year of assessment immediately following that in which the dividend was paid.

4. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights treated in the same way as income from shares by the taxation law of the Contracting State of which the company making the distribution is a resident. This term means also income, even when paid in the form of interest, which is taxable under the head of income on capital invested by the members of a company other than a company with share capital, which is a resident of Belgium.

5. The provisions of paragraphs 1, 2 and 3 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 the virtue of which the dividends are paid is effectively connected. In such a case, the dividends may be taxed according to the law of that other Contracting State.

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 outside that other Contracting State 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.

7. For the purposes of this Convention, dividends paid by a Malaysian company out of profits derived from sources in Singapore to a resident of Belgium shall be treated as dividends paid by a company which is a resident of Singapore.

The term "Malaysian company" means a company which, for the purposes of income tax in Malaysia, is a resident in Malaysia.

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 Contracting State.

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

3. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, debt-claims and deposits of every kind as well as premiums on lottery bonds and all other income treated in the same way as income from money lent or deposited by the taxation law of the Contracting State in which the income arises; however, the term does not include interest assimilated to dividends by Article 10, paragraph 4, second sentence.

4. The provisions of paragraphs 1 and 2 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 or deposit from which the interest arises is effectively connected. In such a case, the interest may be taxed according to the law of that other Contracting State.

5. Interest shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a political subdivision, a local authority, a statutory body 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 directly borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. Where, owing to a special relationship between the payer and the recipient or depositor or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim or deposit for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient or depositor 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 law of the Contracting State in which the interest arises.

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 be taxed in the Contracting State in which they arise and according to the law of that Contracting State, but the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.

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

4.* The provisions of paragraphs 1 and 2 shall not apply if the 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 royalties may be taxed according to the law of that other Contracting State.

5.* Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority, a statutory body or 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 directly 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, 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 law of the Contracting State in which the royalties arise.

Article 13 - CAPITAL GAINS

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.

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 together with the whole enterprise), may be taxed in that other Contracting State. However, gains from the alienation of ships and aircraft operated in international traffic and of movable property pertaining to the operation of such ships and aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

3. Gains from the alienation of any property other than those mentioned in paragraphs 1 and 2 may be taxed in both Contracting States.

Article 14 - PERSONAL SERVICES

1. Subject to the provisions of Articles 15, 17, 18, 19 and 20, 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, remuneration or income derived by a resident of a Contracting State for personal (including professional) services performed in the other Contracting State shall be taxable only in the first-mentioned 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 directly by a permanent establishment which that person has in the other Contracting State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft in international traffic shall be taxable only in that Contracting State.

Article 15 - DIRECTORS' FEES

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

This provision shall also apply to payments made by a company which is a resident of Belgium for the discharge of functions which, under Belgian law, are treated as functions of a similar nature as those performed by a person referred to therein.

2.* Remuneration derived by a person referred to in paragraph 1 from the company in respect of the discharge of day-to-day functions of a managerial or technical nature and remuneration received by a resident of Singapore in respect of his personal activity as a partner of a company, other than a company with share capital, which is a resident of Belgium, may be taxed in accordance with the provisions of Article 14, as if the remuneration was remuneration for personal services.

Article 16 - ARTISTES AND ATHLETES

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

2. The provisions of paragraph 1 shall not apply to remuneration or profits, salaries, wages and similar income derived from activities performed in a Contracting State by public entertainers if the visit to that Contracting State is substantially supported by public funds of the other Contracting State, including any political subdivision, local authority or statutory body thereof.

3. Notwithstanding the provisions of Article 7, where the activities mentioned in paragraph 1 are provided in a Contracting State by an enterprise of the other Contracting State the profits derived from providing these activities by such an enterprise may be taxed in the first-mentioned Contracting State unless the enterprise is substantially supported from the public funds of the other Contracting State, including any political subdivision, local authority or statutory body thereof, in connection with the provision of such activities.

Article 17 - PENSIONS AND ANNUITIES

1.* Subject to the provisions of paragraphs 1 and 2 of Article 18, any pension or annuity paid to a resident of a Contracting State shall be taxable only in that State.

2.* The term "pension", as used in paragraph 1, means periodic payments made in consideration of past employment or by way of compensation for injuries received.

3.# However, pensions and other allowances, periodic or non periodic, paid under the social security legislation of a Contracting State or under a public scheme organised by a Contracting State in order to supplement the benefits of that legislation shall be taxable only in that State.

4.* The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

Article 18 - GOVERNMENTAL FUNCTIONS

1. Remuneration, including pensions, paid by, or out of funds created by, Belgium or a political subdivision or a local authority thereof to any individual in respect of services rendered to Belgium or a political subdivision or local authority thereof in the discharge of functions of a governmental nature shall be taxable only in Belgium, unless the individual is a citizen or a permanent resident of Singapore without being also a national of Belgium.

2. Remuneration, including pensions, paid by, or out of funds created by, Singapore or a statutory body thereof to any individual in respect of services rendered to Singapore or a statutory body thereof in the discharge of functions of a governmental nature shall be taxable only in Singapore, unless the individual is a national or a permanent resident of Belgium without being also a citizen of Singapore.

3. For the purposes of paragraphs 1 and 2, an individual shall be deemed to be a permanent resident of a Contracting State if he is a resident of that Contracting State before entering upon his governmental functions.

4. The provisions of this Article shall not apply to remuneration, including pensions, in respect of services rendered in connection with any trade or business carried on by a Contracting State or a political subdivision, local authority or statutory body thereof.

Article 19 - PROFESSORS OR TEACHERS

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

2. An individual who is a resident of Singapore immediately before making a visit to Belgium, and who, at the invitation of any university, recognised college, school or other similar educational institution, visits Belgium for a period not exceeding two years solely for the purpose of teaching or research or both at such educational institution shall be taxable only in Singapore on his remuneration for such teaching or research.

3. This Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

Article 20 - STUDENTS AND TRAINEES

1. An individual, who immediately before visiting a Contracting State, is a resident of the other Contracting State and is temporarily present in the first-mentioned Contracting State solely as a student at a recognised university, college or school in that first-mentioned Contracting State, or as a business apprentice therein, shall be exempt from tax in the first-mentioned Contracting State in respect of

- (a) all remittances from the other Contracting State for the purposes of his maintenance, education or training; and
- (b) any remuneration for personal services rendered in the first- mentioned Contracting State with a view to supplementing the resources available to him for such purposes, if such remuneration does not exceed 100,000 Belgian francs or its equivalent in Singapore currency for any calendar year.

2. An individual, who immediately before visiting a Contracting State, is a resident of the other Contracting State and is temporarily present in the first-mentioned Contracting State for a period not exceeding three years for the purpose of study, research or training solely as a recipient of a grant, allowance or award from a scientific, educational, religious or charitable organisation or under a technical assistance programme entered into by one of the Contracting States, shall be exempt from tax in the first-mentioned Contracting State on

- (a) the amount of such grant, allowance or award; and
- (b) any remuneration for personal services rendered in the first- mentioned Contracting State which does not exceed 150,000 Belgian francs or its equivalent in Singapore currency for any calendar year, provided such services are in connection with his study, research or training or are incidental thereto.

3. An individual, who immediately before visiting a Contracting State, is a resident of the other Contracting State and is temporarily present in the first-mentioned Contracting State for a period not exceeding twelve months solely as an employee of, or under contract with, the second-mentioned Contracting State or an enterprise thereof for the purpose of acquiring technical, professional or business experience shall be exempt from tax in the first-mentioned Contracting State on

- (a) all remittances from the second-mentioned Contracting State for the purposes of his maintenance, education or training; and
- (b) any remuneration for personal services rendered in the first- mentioned Contracting State which does not exceed 200,000 Belgian francs or its equivalent in Singapore currency for any calendar year, provided such services are in connection with his studies or training or are incidental thereto.

4. For the purposes of this Article the term "Contracting State" shall include any political subdivision, local authority or statutory body thereof.

Article 21 - INCOME NOT EXPRESSLY MENTIONED

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Convention may be taxed in both Contracting States.

Article 22 - LIMITATION OF RELIEF

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 to so much of the income as is remitted to or received in that other Contracting State.

Article 23 - ELIMINATION OF DOUBLE TAXATION

1. The laws in force in either of the Contracting States shall continue to govern the taxation of income in the respective Contracting States except where express provision to the contrary is made in this Convention. Where income is subject to tax in both Contracting States, relief from double taxation shall be given in accordance with the following paragraph of this Article.

2.

- (a) In the case of a resident of Singapore, subject to the provisions of the laws of Singapore regarding the allowance as a credit against Singapore tax of tax payable in any country other than Singapore, Belgian tax payable, whether directly or by deduction in respect of income from sources within Belgium, shall be allowed as a credit against Singapore tax payable in respect of that income.
- (b) Where such income is a dividend paid by a company which is a resident of Belgium to a company which is a resident of Singapore and which owns directly or indirectly not less than 25 percent of the share capital in the first-mentioned company the credit shall take into account, in addition to any Belgian tax on dividends, the Belgian corporate income tax payable in respect of its profits by the company paying the dividends.

3.* In the case of Belgium, double taxation shall be avoided as follows:

- (a) Where a resident of Belgium derives income which may be taxed in Singapore in accordance with the provisions of the Convention, other than those of paragraph 2 of Article 10, of paragraphs 2 or 6 of Article 11 and of paragraphs 2 or 6 of Article 12, Belgium shall exempt such income from tax but may, in calculating the amount of tax on the remaining income of that resident, apply the rate of tax which would have been applicable if such income had not been exempted.
- (b)
 - (i) Subject to the provisions of the Belgian law regarding the allowance as a credit against Belgian tax of taxes paid abroad, where a resident of Belgium derives items of his aggregate income for Belgian tax purposes which are dividends taxable in accordance with paragraph 2 of Article 10, and not exempt from Belgian tax according to sub-paragraph (c), interest taxable in accordance with paragraphs 2 or 6 of Article 11, or royalties taxable in accordance with paragraphs 2 or 6 of Article 12, the Singapore tax levied on that income shall be allowed as a credit against Belgian tax relating to such income.
 - (ii) Belgium shall also allow against its tax a credit with respect to interest and royalties derived from direct investment and included in the aggregate income for Belgian tax purposes of its residents, when Singapore tax may be charged on these items of income according to the provisions of the Convention and the general law of Singapore but no Singapore tax is effectively levied under special and temporary measures designed to promote the economic development of Singapore.

Such credit shall be calculated at a rate of 10 per cent of the gross amount in respect of interest and at a rate of 5 per cent of the gross amount in respect of royalties, but shall not exceed that part of Belgian tax, as computed before the credit is given, which is attributable to these items of income and shall only apply for the first five years for which the supplementary Agreement is effective. However, the competent

authorities of the Contracting States may consult each other to determine whether this period shall be extended.

The term "interest or royalties derived from direct investment" means interest paid in respect of loans, or royalties paid in respect of contracts, which are directly and durably connected with industrial or commercial development projects in Singapore.

- (c) Where a company which is a resident of Belgium owns shares in a company with share capital which is a resident of Singapore, dividends which are paid to it by the latter company and which may be taxed in Singapore in accordance with paragraph 2 of Article 10, shall be exempt from the corporate income tax under the conditions and within the limits provided for in Belgian law.
- (d) Where, in accordance with Belgian law, losses incurred by an enterprise carried on by a resident of Belgium in a permanent establishment situated in Singapore, have been effectively deducted from the profits of that enterprise for its taxation in Belgium, the exemption provided for in sub-paragraph (a) shall not apply in Belgium to the profits of other taxable periods attributable to that establishment to the extent that those profits have also been exempted from tax in Singapore by reason of compensation for the said losses.

Article 24 – NON-DISCRIMINATION

1. Nationals or citizens 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 or citizens 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 Belgium 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 term "nationals or citizens" means:

- (a) all individuals possessing the nationality or citizenship of a Contracting State; and
- (b) all legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State.

3.* 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 preventing Belgium:

- (a) from taxing the profits of a permanent establishment in Belgium of a company which is a resident of Singapore at the rate of tax provided by the Belgian law, provided that this rate does not exceed the maximum rate applicable to the whole or a portion of the profits of companies which are residents of Belgium;
- (b) from imposing the movable property prepayment on dividends derived from a holding which is effectively connected with a permanent establishment maintained in Belgium by a company which is a resident of Singapore.

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 that first-mentioned Contracting State are or may be subjected.

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

Article 25 - MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in a taxation not in accordance with this Convention, he may, without prejudice to the remedies provided by the national laws of these States, address to the competent authority of the Contracting State of which he is a resident an application in writing stating the grounds for claiming a revision of that taxation. The said application must be presented within a period of two years from the date of the notification, or the collection at source, of the charge to tax which the resident considers not in accordance with this Convention.

2. The competent authority referred to in paragraph 1 shall endeavour, if the objection appears to it to be justified and if it is not able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with this Convention.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the application of this Convention.

4. The competent authorities of the Contracting States shall agree on the subject of the necessary administrative measures to carry out the provisions of this Convention and particularly in the matter of the proofs to be furnished by the residents of either Contracting State in order to benefit in the other Contracting State from the exemptions from or reductions in tax provided in this Convention.

Article 26 - EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed apart from the taxpayer or his agent, to any persons or authorities other than those concerned with the assessment or collection of the taxes to which this Convention applies or with appeals relating thereto.

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

- (a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;
- (b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy.

Article 27 - MISCELLANEOUS

1.* 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.

2.* The Convention shall not apply to international organisations, to organs or officials thereof and to persons who are members of a diplomatic or consular mission of a third State, being present in a Contracting State and not being taxed in either Contracting State as residents in respect of taxes on income.

3.* The competent authorities of the Contracting States shall communicate directly with each other for the application of this Convention.

Article 28 - ENTRY INTO FORCE

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

2. This Convention shall have effect:

In Belgium:

- (a) as respects all tax due at source on income credited or payable on or after the first day of January in the calendar year in which this Convention enters into force;
- (b) as respects all tax other than tax due at source, on income of any accounting period ending on or after the 31st day of December in the calendar year in which this Convention enters into force;

In Singapore:

as respects all tax for the year of assessment beginning on the first day of January in the calendar year following that in which this Convention enters into force, and subsequent years of assessment.

Article 29 - TERMINATION

This Convention shall remain in force indefinitely but either of the Contracting States may terminate the Convention through diplomatic channels, by giving to the other Contracting State, written notice of termination not later than the 30th June of any calendar year from the fifth year following that in which the Convention entered into force. In such event the Convention shall have effect for the last time:

In Belgium:

- (a) as respect all tax due at source on income credited or payable at last on the 31st day of December in the calendar year in which the notice of termination is given;
- (b) as respects all tax other than tax due at source on income of any accounting period ending at last on the 30th day of December of the calendar year following that in which the notice of termination is given;

In Singapore:

as respects all tax for the year of assessment beginning on the first day of January in the calendar year following that in which the notice of termination is given.

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

Done in duplicate at Singapore this 8th day of February of the year one thousand nine hundred and seventy-two in the English language.

*For the Government of
the Republic of Singapore:*

HON SUI SEN

*For the Government of
the Kingdom of Belgium:*

JACQUES D'HONDT

PROTOCOL (1972)

At the signing of the Convention between the Government of the Kingdom of Belgium and the Government of the Republic of Singapore for the Avoidance of Double Taxation with respect to Taxes on Income, the undersigned have agreed on the following provisions which shall be an integral part of the Convention.

1. With reference to paragraph 2 of Article 10 and paragraph 2 of Article 11, a Contracting State, as defined in paragraph 3 of this Protocol, shall be exempt from tax of the other Contracting State with respect to dividends, interests and any gains from the alienation of shares, securities or other rights giving rise to dividends and interest derived from sources within that other Contracting State.

However, the exemption shall be limited to shares or other rights referred to in paragraph 4 of Article 10, or securities or other rights referred to in paragraph 3 of Article 11, which are held for purposes of public interest only and not for any other purposes.

2. With reference to Article 22, the limitation imposed by the said Article shall not apply to income derived by a Contracting State from sources in the other Contracting State.

3. The term "a Contracting State" as used in paragraphs 1 and 2 of this Protocol means:

- (a) in the case of Belgium, the Kingdom of Belgium and shall include:
 - (i) any political subdivision or local authority of Belgium;
 - (ii) the National Bank of Belgium (Banque Nationale de Belgique); and
 - (iii) such institutions of Belgium as may be agreed from time to time between the competent authorities referred to in paragraph (1)(h) of Article 3 of the Convention;
- (b) in the case of Singapore, the Republic of Singapore and shall include:
 - (i) the Board of Commissioners of Currency;
 - (ii) the "Monetary Authority of Singapore; and
 - (iii) such institutions of Singapore as may be agreed from time to time between the competent authorities referred to in paragraph (1)(h) of Article 3 of the Convention.

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

Done in duplicate at Singapore this 8th day of February of the year one thousand nine hundred and seventy-two in the English language.

*For the Government of
the Republic of Singapore:*

HON SUI SEN

*For the Government of
the Kingdom of Belgium:*

JACQUES D'HONDT

ANNEX B

Article 5 – PERMANENT ESTABLISHMENT

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, quarry or other place of exploitation of natural resources;
 - (g) a farm or plantation;
 - (h) a building site or construction or assembly project which exists for more than six months.

Article 11 - INTEREST

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

Article 12 - ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in both Contracting States.
2. The term "royalties" as used in this Article means payments of any kind received as a consideration of the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, 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, or for the performance of technical or commercial assistance services which are incidental to the use of such goods or rights, to the extent that the services are performed in the Contracting State in which the royalties arise.
3. Notwithstanding the provision of paragraph 1, royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State, if they are paid as consideration for
- (a) the use of, or the right to use, any
 - (i) copyright of scientific work, patent, design or model, plan, secret formula or process or trade mark;
 - (ii) industrial, commercial or scientific equipment;
 - (b) the supply of scientific, technical or industrial knowledge, information or assistance.
4. The provision of paragraph 3 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 royalties may be taxed according to the law of that other Contracting State.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority, a statutory body or 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 directly 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, 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 provision of paragraph 3 shall apply only to the last-mentioned amount.

Article 15 – DIRECTORS’ FEES

1. Directors' fees and 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.

2. The remuneration which a person to whom paragraph 1 applies derives from the company in respect of the discharge of day-to-day functions of a managerial or technical nature may be taxed in accordance with the provisions of Article 14.

Article 17 – PENSIONS AND ANNUITIES

1. Subject to the provisions of paragraphs 1 and 2 of Article 18, pensions or annuities derived by a resident of a Contracting State shall be taxable only in that Contracting State.

2. The term "pensions" means periodic payments made in consideration of past employment or by way of compensation for injuries received.

3. The term "annuities" means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's-worth.

Article 23 – ELIMINATION OF DOUBLE TAXATION

3. In the case of income derived from sources in Singapore which is liable to tax in Belgium according to Belgian law:

- (a)
 - (i) Where a company which is a resident of Belgium owns shares in a company which is a resident of Singapore the dividends paid thereon to the former company which have not been dealt with in accordance with paragraph 5 of Article 10 shall be exempt in Belgium from the tax referred to in paragraph 3(a)(ii) of Article 2 to the extent that exemption would have been accorded if the two companies had been residents of Belgium.
 - (ii) A company which is a resident of Belgium and which owns directly shares in a company which is a resident of Singapore during the whole of the accounting period of the latter company shall likewise be exempted or granted relief from the prepayment on income from movable property (précompte mobilier) chargeable in accordance with Belgian law on the net amount of the dividends referred to above which are paid to it by the said company which is a resident of Singapore and is liable to the tax referred to in paragraph 3(b) of Article 2, provided that it so requests in writing not later than the time limited for the submission of its annual return, on the understanding that, on redistribution to its own shareholders of income not charged to the said prepayment, the income then distributed and chargeable to the said prepayment shall not be reduced by the amount of such dividends, notwithstanding Belgian law. This exemption shall not apply when the first-mentioned company has elected that its profits be charged to the individual income tax.

However, the application of the provision of this sub- paragraph (a)(ii) shall be limited to dividends paid by a company which is a resident of Singapore to a company which is a resident of Belgium which controls directly or indirectly not less than 25 percent of the voting power in the former company, in cases where, in regard to the exemption of the tax referred to in paragraph 3(a)(ii) of Article 2, a similar limitation would be imposed by Belgian legislation in respect of dividends paid by companies not residents of Belgium.

(iii) In cases not covered by sub-paragraph (a)(i), Belgium shall allow a credit against Belgian tax charged on income derived by a resident of Belgium, if such income is

- dividends dealt with in paragraph 2 of Article 10;
- interest dealt with in paragraphs 2 and 6 of Article 11 which is subject to Singapore tax according to the taxation law of Singapore, including such interest on which no Singapore tax is levied by virtue of the special measures provided for in the Economic Expansion Incentives (Relief from Income Tax) Act (Chapter 135, 1970 Edition) of the Republic of Singapore, or any other provision which may subsequently be made granting relief which is agreed by the competent authorities of both Contracting States to be of a substantially similar character;
- royalties dealt with in paragraphs 1, 3 and 6 of Article 12.

This credit shall be an amount equal to 15 percent of the gross amount of such dividends, interest or royalties, which is included in the taxable basis of the said resident.

(b)

- (i) Where a resident of Belgium receives income other than that mentioned in sub-paragraph (a) above which is chargeable to tax in Singapore in accordance with the provisions of this Convention, Belgium shall exempt such income from tax, but may in calculating the amount of the tax on the remaining of that resident apply the rate of tax which would have been applicable if the income in question had not been exempted.
- (ii) Income chargeable as business profits in accordance with Belgian law in the hands of members of companies and bodies of persons shall be treated as though it were profits arising from a business carried on by the members themselves on their own account.
- (iii) Notwithstanding sub-paragraph (b)(i) above, Belgian tax may be charged on income chargeable in Singapore to the extent that this income has not been charged in Singapore because of the set-off of losses also deducted, in respect of any accounting period, from income taxable in Belgium.

Article 24 – NON-DISCRIMINATION

3. 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 preventing Belgium from taxing the total amount of the profits attributable to a permanent establishment in Belgium of a company being a resident of Singapore or of an association having its place of effective management in Singapore at the rate of tax provided by the Belgian law, but this rate may not - before the surcharges referred to in paragraph 3(a)(vi) of Article 2 - exceed the maximum rate applicable to the whole or a portion of the profits of companies which are residents of Belgium.

Article 27 – MISCELLANEOUS

1. As regards a company which is a resident of Belgium, the provisions of this Convention shall not limit its taxation in accordance with the Belgian law in the event of the repurchase of its own shares or in the event of the distribution of its assets.