



Double Taxation Avoidance Agreement between Switzerland and Singapore

Entered into force on August 1, 2012

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 REPUBLIC OF SINGAPORE
AND THE SWISS CONFEDERATION
FOR THE AVOIDANCE OF DOUBLE TAXATION
WITH RESPECT TO TAXES ON INCOME**

Date of Conclusion: 24 February 2011

Entry into Force: 1 August 2012

Effective Date: 1 January 2013

NOTE

An Agreement between the Competent Authorities of Singapore and Switzerland was reached under the Mutual Agreement Procedure ("MAP") Article regarding the interpretation of subparagraph c) of paragraph 6 of the Protocol to the Agreement between the Swiss Confederation and the Republic of Singapore for the Avoidance of Double Taxation with Respect to Taxes on Income, signed at Singapore on 24 February 2011.

The text of the MAP Agreement, signed at Singapore on 25 May 2012 and at Bern on 29 May 2012, is shown in Annex A.

There was an earlier Convention signed between the Government of the Republic of Singapore and the Swiss Confederation for the avoidance of double taxation with respect to taxes on income and on capital.

The text of this Convention which was signed on 25 November 1975 is shown in Annex B.

The Government of the Republic of Singapore and the Swiss Federal Council,

Desiring to conclude an Agreement for the avoidance of double taxation 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 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 Switzerland:

the federal, cantonal and communal taxes on income (total income, earned income, income from capital, industrial and commercial profits, capital gains, and other items of income)

(hereinafter referred to as "Swiss tax").

4. The Agreement shall not apply to taxes withheld at the source on prizes in a lottery.

5. 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 respective taxation laws.

Article 3 - General Definitions

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

(a) the term Switzerland means the Swiss Confederation;

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

- (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;
- (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 Switzerland, the Director of the Federal Tax Administration or his authorised representative;
 - (ii) in the case of Singapore, the Minister for Finance or his authorised representative;
- (h) the term "national" means:
 - (i) any individual possessing the nationality or citizenship of a Contracting State;
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State.

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

Article 4 - Resident

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

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

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

- (b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
- (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
- (d) in any other case, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

Article 5 - Permanent Establishment

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

2. The term "permanent establishment" includes especially:

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

3. (a) A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve 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 constitutes a permanent establishment 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 300 days within any twelve-month period.

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

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

- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or any other activities which have a preparatory or auxiliary character for the enterprise;
- (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 all expenses, including executive and general administrative expenses, which would be deductible if the permanent establishment were an independent enterprise, insofar as they are reasonably allocable to the permanent establishment, whether incurred in the Contracting State in which the permanent establishment is situated or elsewhere.

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

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

- (b) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers), used for the transport of goods or merchandise; and
- (c) interest on funds connected with the operations of ships or aircraft in international traffic

where such activity or such interest, as the case may be, is incidental to 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 accordance with the provisions of paragraph 1, in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and where the competent authorities of the Contracting States agree, upon consultation, that all or part of the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those agreed profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement.

Article 10 - Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

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

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

3. Notwithstanding the provisions of paragraph 2, dividends paid by a company which is a resident of a Contracting State shall be taxable only in the other Contracting State if the beneficial owner of the dividends is:

- (a) in the case of Singapore:
 - (i) the Monetary Authority of Singapore; and
 - (ii) the Government of Singapore Investment Corporation Pte Ltd;
- (b) in the case of Switzerland:
 - the Swiss National Bank.

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

The provisions of paragraphs 2 and 3 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

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

6. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

Article 11 - Interest

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

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

3. Notwithstanding the provisions of paragraph 2,

- (a) 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;
- (b) interest arising in Switzerland and paid to the Monetary Authority of Singapore shall be exempt from tax in Switzerland; and
- (c) interest arising in Singapore and paid to the Swiss National Bank shall be exempt from tax in Singapore.

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

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. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

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 Contracting State in which the permanent establishment or fixed base is situated.

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

Article 12 - Royalties

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

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

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

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

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, 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 derived by a resident of a Contracting State from the alienation of shares, other than shares traded on a recognised Stock Exchange, deriving more than 50 per cent of their value directly or indirectly from immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

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

Article 14 - 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 300 days within any twelve-month period; in that case, only so much of the income as is derived from his activities performed in that other 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 the calendar year concerned; and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

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

Article 16 - Directors' Fees

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

Article 17 - Artistes and Sportsmen

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

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

3. Paragraphs 1 and 2 shall not apply to income from activities performed in a Contracting State by entertainers or sportsmen if such income is derived directly or indirectly in a substantial manner from public funds of the other Contracting State, a political subdivision or a local authority thereof.

Article 18 - Pensions

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 19 - Government Service

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

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

- (i) is a national of that State; or
- (ii) did not become a resident of that State solely for the purpose of rendering the services.

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

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

3. The provisions of Articles 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, a political subdivision, a local authority or a statutory body thereof.

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 paragraph 1, withdrawals made by a resident of Switzerland from his Supplementary Retirement Scheme account under Section 10L of the Singapore Income Tax Act (Chapter 134)(revised edition 2008) shall be taxable only in Singapore, and payments made out of an individual retirement savings plan set up in the form of an individual recognised pension scheme comparable with the professional pension plans, in accordance with article 82 of the Federal Act on old age, widows' / widowers' and orphans' and invalidity insurance payable in respect of employment or self-employment of 25 June 1982, to a resident of Singapore, shall be taxable only in Switzerland.

Article 22 - Remittance Clause

1. Where this Agreement provides (with or without other conditions) that income from sources in Switzerland shall be exempt from tax, or taxed at a reduced rate, in Switzerland 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 Switzerland 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 23. In such a case, the exemption or reduction of tax to be allowed under this Agreement in Switzerland shall apply to the full amount of income from sources in Switzerland that is exempted from tax in Singapore.

Article 23 - Elimination of Double Taxation

1. In Singapore, double taxation shall be avoided as follows:
 - (a) Where a resident of Singapore derives income from Switzerland which, in accordance with the provisions of this Agreement, may be taxed in Switzerland, 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 Swiss 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 Switzerland 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 Swiss 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 Switzerland, 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 Switzerland, double taxation shall be avoided as follows:
 - (a) Where a resident of Switzerland derives income which, in accordance with the provisions of this Agreement, may be taxed in Singapore, Switzerland shall, subject to the provisions of subparagraph b), exempt such income from tax but may, in calculating tax on the remaining income of that resident, apply the rate of tax which would have been applicable if the exempted income had not been so exempted; provided, however, that such exemption shall apply to gains referred to in paragraph 4 of Article 13 only if actual taxation in Singapore is demonstrated.
 - (b) Where a resident of Switzerland derives dividends, interest or royalties which, in accordance with the provisions of Articles 10, 11 and 12 may be taxed in Singapore, Switzerland shall allow, upon request, a relief to such resident. The relief may consist of:
 - (i) a deduction from the tax on the income of that resident of an amount equal to the tax levied in Singapore in accordance with the provisions of Articles 10, 11 and 12; such deduction shall not, however, exceed that part of the Swiss tax, as computed before the deduction is given, which is appropriate to the income which may be taxed in Singapore; or
 - (ii) a lump sum reduction of the Swiss tax; or
 - (iii) a partial exemption of such dividends, interest or royalties from Swiss tax, in any case consisting at least of the deduction of the tax levied in Singapore from the gross amount of the dividends, interest and royalties.

Switzerland shall determine the applicable relief and regulate the procedure in accordance with the Swiss provisions relating to the carrying out of international conventions of the Swiss Confederation for the avoidance of double taxation.

- (c) A company which is a resident of Switzerland and which derives dividends from a company which is a resident of Singapore shall be entitled, for the purposes of

Swiss tax with respect to such dividends, to the same relief which would be granted to the company if the company paying the dividends were a resident of Switzerland.

Article 24 - Non-Discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.
3. Nothing in this Article shall be construed as obliging a Contracting State to grant to:
 - (a) residents of the other Contracting State any personal allowances, reliefs and reductions for tax purposes which it grants to its own residents; or
 - (b) nationals of the other Contracting State those personal allowances, reliefs and reductions for tax purposes which it grants to its own nationals who are not residents of that State or to such other persons as may be specified in the taxation laws of that State.
4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.
5. Where a Contracting State grants tax incentives to its nationals designed to promote economic or social development in accordance with its national policy and criteria, it shall not be construed as discrimination under this Article.
6. The provisions of this Article shall apply to the taxes which are the subject of this Agreement.

Article 25 - 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 24, 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.

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

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

Article 26 - Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes covered by the Agreement insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1.

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

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

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

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

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person. In the case of Switzerland, in order to obtain such information, its tax authorities, to comply with its obligations under this paragraph, shall have the power to enforce the disclosure of information covered by this paragraph, notwithstanding paragraph 3 or any contrary provisions in its domestic law. In the case of Singapore, in order to obtain such information, it shall ensure that when it is the requested Contracting State, its tax authorities shall have the power under its domestic laws to enforce the disclosure of information covered by this paragraph.

Article 27 - 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 28 - Entry into Force

1. This Agreement shall enter into force on the last day on which the Contracting States exchange notes through the diplomatic channels notifying each other that the last of such things has been done as is necessary to give the Agreement the force of law in Switzerland and Singapore, as the case may be, and, in that event, the Agreement shall have effect:

- (a) in the case of Switzerland:
 - (i) in respect of taxes withheld at source on amounts paid or credited on or after the first day of January of the year next following the year of the entry into force of the Agreement;
 - (ii) in respect of other taxes for taxation years beginning on or after the first day of January of the year next following the year of the entry into force of the Agreement;
 - (iii) in respect of Article 26 to requests made on or after the date of entry into force to information that relates to taxable periods beginning on or after the first day of January of the year next following the entry into force of the Agreement.
- (b) in the case of Singapore:
 - (i) in respect of tax chargeable for any year of assessment beginning on or after 1 January in the second calendar year following the year in which the Agreement enters into force;
 - (ii) in respect of Article 26 to requests made on or after the date of entry into force to information that relates to 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.

2. The Convention between the Republic of Singapore and the Swiss Confederation for the avoidance of double taxation with respect to taxes on income and on capital, signed on 25 November 1975, shall cease to have effect for all cases covered by this Convention as from the date on which the provisions of this Agreement commence to have effect.

3. Notwithstanding the provisions of paragraph 2,

- (a) in the case of interest arising in Singapore and paid to a resident of Switzerland in respect of a loan or other indebtedness which has, before the entry into force of this Agreement, been approved by the competent authority of Singapore in accordance with paragraph 3 of Article 11 of the Convention between the Republic of Singapore and the Swiss Confederation for the avoidance of double

taxation with respect to taxes on income and on capital, signed on 25 November 1975;

- (b) in the case of royalties arising in Singapore and paid to a resident of Switzerland that have, before the entry into force of this Agreement, been approved by the competent authority of Singapore in accordance with paragraph 3 of Article 12 of the Convention between the Republic of Singapore and the Swiss Confederation for the avoidance of double taxation with respect to taxes on income and on capital, signed on 25 November 1975,

this interest or these royalties, as the case may be, shall remain exempt from tax in Singapore and Switzerland shall allow, upon request, a relief of an amount equal to 10% of the gross amount of the interest or a relief of an amount equal to 5% of the gross amount of the royalties, during a period of five years after the entry into force of this Agreement. The provisions of subparagraph b) of paragraph 2 of Article 23 of this Agreement shall apply accordingly.

Article 29 - Termination

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect:

- (a) in the case of Switzerland:
 - (i) in respect of taxes withheld at source on amounts paid or credited on or after the first day of January of the calendar year next following that in which the notice was given;
 - (ii) in respect of other taxes for taxation years beginning on or after the first day of January of the calendar year next following that in which the notice was given.
- (b) in the case of 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 24th day of February 2011 in the English and German languages, both texts being equally authentic.

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

For the Swiss Federal Council

MOSES LEE
Commissioner of Inland Revenue

JÖRG AL. REDING
Ambassador of Switzerland

Protocol

The Government of the Republic of Singapore and the Swiss Federal Council, at the time of signing of the Agreement for the avoidance of double taxation with respect to taxes on income, this day concluded between the Government of the Republic of Singapore and the Swiss Federal Council, have agreed that the following provisions shall form an integral part of the Agreement.

1. With reference to Articles 4 and 19

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

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. With reference to Article 7

In respect of paragraphs 1 and 2 of Article 7, where an enterprise of a Contracting State sells goods or merchandise or carries on business in the other State through a permanent establishment situated therein, the profits of that permanent establishment shall not be determined on the basis of the total amount received by the enterprise, but shall be determined only on the basis of that part of the total receipts which is attributable to the actual activity of the permanent establishment for such sales or business.

In the case of contracts for the survey, supply, installation or construction of industrial, commercial or scientific equipment or premises, or of public works, when the enterprise has a permanent establishment, the profits of such permanent establishment shall not be determined on the basis of the total amount of the contract, but shall be determined only on the basis of that part of the contract which is effectively carried out by the permanent establishment in the State where the permanent establishment is situated.

The profits related to that part of the contract which is carried out by the head office of the enterprise shall be taxable only in the State of which the enterprise is a resident.

3. With reference to Article 7 and 12

It is understood that payments received as a consideration for the use of, or the right to use industrial, commercial or scientific equipment constitute business profits covered by Article 7.

4. With reference to Article 8

It is understood that Article 11 of the Agreement shall not apply to interest referred to in subparagraph c of paragraph 3 of Article 8 of the Agreement.

5. With reference to Article 18

It is understood that income referred to in Article 18 does not only cover periodic payments but also includes lump sum payments.

6. With reference to Article 26

(a) It is understood that an exchange of information will only be requested once the requesting Contracting State has pursued all means available in its own territory to obtain the information.

(b) It is understood that the administrative assistance provided for in Article 26 does not include measures aimed only at the simple collection of pieces of evidence (“fishing expeditions”).

(c) It is understood that the information to be provided by the competent authority of the requesting State to the competent authority of the requested State when making a request for information under Article 26 of the Agreement shall include the following:

- (i) the name and address of the person(s) under examination or investigation and, if available, other particulars facilitating that person’s identification, such as date of birth, marital status or tax identification number;
- (ii) the period of time for which the information is requested;
- (iii) a statement of the information sought including its nature, the relevance of the information to the request, and the form in which the requesting State wishes to receive the information from the requested State;
- (iv) the tax purpose for which the information is sought;
- (v) the grounds for believing that the information requested for is held by the competent authority of the requested State or is in the possession or control of a person in the requested State;
- (vi) the name and address of any person believed to be in possession of the requested information;
- (vii) a statement that the requesting State has pursued all means available in its own territory to obtain the information; and
- (viii) any other information that may assist in giving effect to the request.

While this subparagraph contains important procedural requirements that are intended to ensure that fishing expeditions do not occur, clauses (i) through (viii) nevertheless need to be interpreted in order not to frustrate effective exchange of information.

(d) It is further understood that Article 26 of the Agreement shall not commit the Contracting States to exchange information on an automatic or a spontaneous basis.

(e) It is further understood that in case of an exchange of information, the administrative procedural rules regarding taxpayers’ rights provided for in the requested Contracting State remain applicable before the information is transmitted to the requesting Contracting State. It is further understood that this provision aims at guaranteeing the taxpayer a fair procedure and not at preventing or unduly delaying the exchange of information process.

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

DONE in duplicate at Singapore on this 24th day of February 2011 in the English and German languages, both texts being equally authentic.

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

For the Swiss Federal Council

MOSES LEE
Commissioner of Inland Revenue

JÖRG AL. REDING
Ambassador of Switzerland

ANNEX A

Mutual Agreement regarding the interpretation of subparagraph c) of paragraph 6 of the Protocol to the Agreement between the Swiss Confederation and the Republic of Singapore for the Avoidance of Double Taxation with Respect to Taxes on Income, signed at Singapore on 24 February 2011

The competent authorities of the Swiss Confederation and of the Republic of Singapore have entered into the following Mutual Agreement regarding the interpretation of subparagraph c) of paragraph 6 of the Protocol (hereinafter “Protocol”) to the Agreement between the Swiss Confederation and the Republic of Singapore for the Avoidance of Double Taxation with Respect to Taxes on Income (hereinafter “the Agreement”), signed at Singapore on 24 February 2011:

Subparagraph c) of paragraph 6 of the Protocol sets forth the information that the competent authority of the requesting State shall provide to the competent authority of the requested State when making a request for information under Article 26 of the Agreement. According to this provision, it is required that the requesting State provides among other information, (i) the name and address of the person(s) under examination or investigation and, if available, other particulars facilitating that person’s identification, such as date of birth, marital status or tax identification number; and (vi) the name and address of any person believed to be in possession of the requested information. Subparagraph c) further clarifies that whilst the requirements in (i) to (viii) are important procedural requirements that are intended to ensure that fishing expeditions do not occur, these requirements nevertheless need to be interpreted in order not to frustrate effective exchange of information.

Therefore, such requirements are to be interpreted in a manner that an administrative assistance request made under Article 26 of the Agreement is to be complied with if the requesting State, further to the information as required by (ii) to (v) and by (vii) and (viii) of subparagraph c) of paragraph 6 of the Protocol, provides

- a) the identity of the person under examination or investigation; such identification may be provided by other means than by indicating the name and address of the person concerned; and
- b) to the extent known, the name and address of any person believed to be in possession of the requested information,

provided the request is not a fishing expedition.

Upon signature by both competent authorities, this Mutual Agreement is effective as from the date of the entry into force of the Agreement.

Done at Bern on 29 May 2012

Done at Singapore on 25 May 2012

For the Swiss Competent Authority:

For the Singapore Competent Authority:

Jürg Giraudi
State Secretariat for
International Financial Matters SIF

Chai Sui Fun
Assistant Commissioner
Tax Policy and International Tax Division
Inland Revenue Authority of Singapore

ANNEX B

**CONVENTION BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE
AND THE SWISS CONFEDERATION
FOR THE AVOIDANCE OF DOUBLE TAXATION
WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

The Government of the Republic of Singapore and the Swiss Federal Council,

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

Have agreed as follows:

Article 1

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

Article 2

1. This Convention shall apply to taxes on income and on capital imposed on behalf of each 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 and on capital all ordinary and extraordinary taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

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

(a) in the Republic of Singapore:

the income tax

(hereinafter referred to as "Singapore tax");

(b) in Switzerland:

the federal, cantonal and communal taxes

- (i) on income (total income, earned income, income from capital, industrial and commercial profits, capital gains and other items of income); and
- (ii) on capital (total property, movable and immovable property, business assets, paid-up capital and reserves and other items of capital)

(hereinafter referred to as "Swiss 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.

5. The Convention shall not apply to Federal anticipatory tax withheld at the source on prizes in a lottery.

6. If taxes on capital or on capital gains are introduced in Singapore at some future date the Convention shall apply to such taxes.

Article 3

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

- (a) the term "Singapore" means the Republic of Singapore;
- (b) the term "Switzerland" means the Swiss Confederation;
- (c) the terms "a Contracting State" and "the other Contracting State" mean Singapore or Switzerland, as the context requires;
- (d) the term "tax" means Singapore tax or Swiss tax, as the context requires;
- (e) the term "person" includes an individual, a company and any other body of persons, corporate or not corporate;
- (f) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an industrial, mining, commercial, timber, plantation or agricultural enterprise or undertaking carried on by a resident of a Contracting State and an industrial, mining, commercial, timber, plantation or agricultural enterprise or undertaking carried on by a resident of the other Contracting State;
- (h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (i) the term "competent authority" means:
 - (i) in the case of Singapore: the Minister for Finance or his authorised representative;

- (ii) in the case of Switzerland: the Director of the Federal Tax Administration 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

1. For the purposes of this Convention, the terms, "resident of a Contracting State" and "resident of the other Contracting State" mean a resident of Singapore or a resident of Switzerland, as the context requires; and the term "resident of Singapore" means any person who is resident in Singapore for the purposes of Singapore tax; and the term "resident of Switzerland" means any person who is resident in Switzerland for the purposes of Swiss tax.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his residence 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;
- (b) If the Contracting State, with which his personal and economic relations are closer, cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) If he has an habitual abode in both Contracting States or in neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

Article 5

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

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

- (a) a place of management,
- (b) a branch,
- (c) an office,
- (d) a factory,

- (e) a workshop,
- (f) a farm or plantation,
- (g) a mine, quarry or other place of extraction of natural resources,
- (h) a building site or construction or installation or assembly project which exists for more than six months.

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

- (a) the use of facilities solely for the purpose of storage, displaying 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 State for more than six months in connection with a building site or construction or installation or assembly project which is being undertaken in that other 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 State if: -

- (a) he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or
- (b) he has, and habitually exercises in that State, an authority to fill orders on behalf of the enterprise from a stock of goods or merchandise which he maintains in that State and which belongs to 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 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 State (whether through a permanent establishment or otherwise) shall not of itself constitute either company a permanent establishment of the other.

Article 6

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.
2. The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in any case include 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 places of extraction of 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

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. 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 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. Nothing in this paragraph shall however authorise a deduction for expenses which would not be deductible if the permanent establishment were a separate enterprise.
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 laid down in this Article.
5. 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.

6. For the purpose 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 Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

1. Profits derived by an enterprise of a Contracting State from the operation of aircraft in international traffic in respect of the carriage of passengers, mails, livestock or goods shall be taxable only in that State.

2. Profits derived by an enterprise of a Contracting State from sources within the other Contracting State by the operation of ships in international traffic may be taxed in the other State but the tax so charged shall not exceed half the amount which would be payable in respect of those profits but for this paragraph.

3. The provisions of paragraph 1 and 2 shall also apply to the share of the profits from the operation of ships or aircraft derived by an enterprise of a Contracting State through participation in a pool, in a joint business or in an international operating agency.

4. For the purpose of this Article profits derived from sources within the other Contracting State shall mean profits from the carriage of passengers, mails, livestock or goods shipped in that State. Provided that there shall be excluded the profits accruing from the carriage of passengers, mails, livestock or goods which are brought to that other State solely for transshipment.

Article 9

Where -

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

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

Article 10

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other 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 if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

- (a) 10 per cent of the gross amount of the dividends if the recipient is a company (excluding partnership) which holds directly at least 25 per cent of the share capital of the company paying the dividends;
- (b) in all other cases, 15 per cent of the gross amount of the dividends.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

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

4. As long as according to Singapore tax law Singapore tax chargeable in respect of the profits or income of a company which is a resident of Singapore is, or is deemed to be, deducted from the dividends paid by such company to a resident of Switzerland, such dividends shall be exempt from any tax in Singapore which is chargeable on dividends in addition to the first-mentioned tax.

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

6. The provisions of paragraphs 1, 2 and 4 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of Article 7 shall apply.

7. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company to persons who are not residents of that other 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 such other State.

8. Dividends paid by a company which is a resident of Singapore shall include dividends paid by a company which is a resident of Malaysia which for the purpose of those dividends has declared itself to be a resident of Singapore, but shall not include dividends paid by a company which is a resident of Singapore which for the purpose of those dividends has declared itself to be a resident of Malaysia.

Article 11

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

2. However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that State, but if the recipient is the beneficial owner of the interest

the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2, interest arising in Singapore and paid to a resident of Switzerland shall be exempt from Singapore tax if the loan or other indebtedness in respect of which the interest is paid is approved by the competent authority of Singapore.

4. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the provisions of Article 7 shall apply.

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

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

Article 12

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

2. However, such royalties may be taxed in the Contracting State in which they arise, and according to the law of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.

3. Notwithstanding the provisions of paragraph 2, royalties arising in Singapore and paid to a resident of Switzerland shall be exempt from Singapore tax if the royalties are approved by the competent authority of Singapore.

4. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of scientific work, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

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

6. The provisions of paragraphs 1, 2 and 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 provisions of Article 7 shall apply.

7. Where, owing to a special relationship between the payer and the recipient of between both of them and some other person, the amount of the royalties paid, having regard to the use, right, property 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 each Contracting State, due regard being had to the other provisions of this Convention.

8. This Convention shall not apply to payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary or artistic work, including cinematograph films and films or tapes for radio or television broadcasting, or to sums from the alienation of any right or property giving rise to such payments.

Article 13

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 the other State. However, gains from the alienation of movable property of the kind referred to in paragraph 3 of Article 20 shall be taxable only in the Contracting State in which such movable property is taxable according to the said Article.

3. Subject to the provisions of paragraph 8 of Article 12, gains from the alienation of any property other than those mentioned in paragraphs 1 and 2, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

1. Subject to the provisions of Articles 15, 17, 18 and 19, salaries, wages and other similar remuneration in respect of an employment as well as income in respect of professional services or other independent activities of a similar character, derived by a resident of a Contracting State, shall be taxable only in that State, unless the employment, services or activities are exercised or performed in the other Contracting State. If the employment, services or activities are so exercised or performed, such remuneration or income as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration or income derived by a resident of a Contracting State in respect of an employment, services or activities exercised or performed 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 the calendar year concerned; and
- (b) the remuneration or income is paid by, or on behalf of, a person who is not a resident of the other State; and
- (c) the remuneration or income is not borne by a permanent establishment which that person has in the other 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 State.

Article 15

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 State.

Article 16

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 or local authority thereof.

3. Where income in respect of personal activities as such of an entertainer or athlete accrues not to that entertainer or athlete himself but to another person that income may, notwithstanding the provisions of Article 7, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised unless the visit to that State is substantially supported from public funds.

Article 17

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

Remuneration, including pensions, paid by a Contracting State or a political subdivision or a local authority thereof or by an entity created and organised by a special law of such Contracting State, directly or out of a fund, to any individual who is a citizen of that State in respect of present or past services rendered shall be taxable only in the State where the remuneration originates.

Article 19

1. Payments which a student or business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting 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 other State.

2. An individual who is or was formerly a resident of a Contracting State and who is present in the other Contracting State for the purpose of study, research or training or of acquiring technical, professional or business experience, shall be exempt from tax in that other Contracting State for a period or periods not exceeding in the aggregate twelve months on remuneration in respect of an employment in such other State provided that such employment is directly related to his studies, research, training or acquiring of experience and that the remuneration from that employment does not exceed 18 000 Swiss francs or the equivalent thereof in Singapore currency at the official rate of exchange.

Article 20

1. Capital represented by immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.

2. Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise may be taxed in the Contracting State in which the permanent establishment is situated.

3. Ships and aircraft operated in international traffic by an enterprise of a Contracting State and movable property pertaining to the operation of such ships and aircraft shall be taxable only in that State.

4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 21

Where under any provision of the Convention income from a source within Switzerland is relieved from Swiss tax and, under the law in force in Singapore a person, in respect of 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

relief to be allowed under the Convention in Switzerland shall apply only to so much of the income as is remitted to or received in Singapore.

Article 22

1. 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, Swiss tax payable under the laws of Switzerland and in accordance with this Convention, whether directly or by deduction, in respect of income from sources within Switzerland shall be allowed as a credit against any Singapore tax payable in respect of that income. Where such income is a dividend paid by a company which is a resident of Switzerland to a company which holds, directly or indirectly not less than 25 per cent of the share capital of the former company, the credit shall take into account (in addition to any Swiss tax appropriate to the dividend) the Swiss tax payable by the former company in respect of its profits.

2. Where a resident of Switzerland derives income or owns capital which, in accordance with the provisions of the Convention, may be taxed in Singapore, Switzerland shall, subject to the provisions of paragraphs 3, 4 and 5 exempt such income or capital from tax but may, in calculating tax on the remaining income or capital of that person, apply the rate of tax which would have been applicable if the exempted income or capital had not been so exempted. Provided, however, that where profits derived by a resident of Switzerland from sources within Singapore which in accordance with paragraph 2 of Article 8 are subject to tax in Singapore, the Swiss tax charged on those profits shall be reduced by one half.

3. Where a resident of Switzerland derives dividends, interest or royalties which, in accordance with the provisions of Articles 10, 11 and 12, may be taxed in Singapore, Switzerland shall allow, upon request, a relief to such person which may consist of:-

- (a) a deduction from the tax on the income of that person of an amount equal to the tax levied in Singapore in accordance with the provisions of Articles 10, 11 and 12; such deduction shall not, however, exceed that part of the Swiss income tax, as computed before the deduction is given, which is appropriate to the dividends, interest or royalties, or
- (b) a lump sum reduction of the Swiss tax, or
- (c) a partial exemption of such dividends, interest or royalties from Swiss tax, in any case consisting at least of the deduction of the tax levied in Singapore from the gross amount of the dividends, interest or royalties.

Switzerland shall determine the applicable relief and regulate the procedure in accordance with the Swiss provisions relating to the carrying out of international conventions of the Swiss Confederation for the avoidance of double taxation.

4. Switzerland shall take into account for the relief provided for in paragraph 3 an amount equal to 10 per cent of the net amount of dividends, as long as paragraph 4 of Article 10 applies. However, such relief shall not apply to dividends paid by a company which is a resident of Singapore when such company has for the purpose of these dividends declared itself to be a resident in Malaysia.

5. Where a resident of Switzerland derives interest dealt with in paragraph 3 of Article 11 or royalties dealt with in paragraph 3 of Article 12 from Singapore, Switzerland shall allow, upon request, a relief to such resident of an amount equal to 10 per cent of the gross

amount of the interest or royalties. The provisions of paragraph 3 of this Article shall apply accordingly.

6. A company which is a resident of Switzerland and which derives dividends from a company which is a resident of Singapore shall be entitled, for the purposes of Swiss tax with respect to such dividends, to the same relief which would be granted to the company if the company paying the dividends were a resident of Switzerland.

Article 23

1. 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 citizens of that other State in the same circumstances are or may be subjected. This provision shall not be construed as obliging Singapore to grant to nationals of Switzerland 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 "citizens" means:

- (a) all individuals possessing the citizenship of a Contracting State;
- (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 State than the taxation levied on enterprises of that other State carrying on the same activities.

This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

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 State are or may be subjected.

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

Article 24

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve 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 the Convention.

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

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

Article 25

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. In so far as, on account of fiscal privileges granted to diplomatic or consular officials under the general rules of international law or under the provisions of special international treaties, income or capital is not subject to tax in the receiving State, the right to tax shall be reserved to the sending State.

3. For the purposes of the Convention, persons who are members of a diplomatic or consular mission of a Contracting State in the other Contracting State or in a third State and who are nationals of the sending State shall be deemed to be residents of the sending State if they are submitted therein to the same obligations in respect of taxes on income and capital as are residents of that State.

4. 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 treated in either Contracting State as residents in respect of taxes on income and capital.

Article 26

1. This Convention shall come into force on the date when the last of all such things have been done in Singapore and Switzerland as are necessary to give the Convention the force of law in Singapore and Switzerland respectively, and shall thereupon have effect:-

(a) in Singapore:

for any year of assessment beginning on or after the 1st January, 1975;

(b) in Switzerland:

for any fiscal year beginning on or after the 1st January, 1975.

2. The Contracting States shall notify each other on the completion of the requirements mentioned in paragraph 1.

Article 27

This Convention shall remain in force indefinitely, but either of the Contracting States may, on or before the 30th day of June in any calendar year, give to the other Contracting State, through diplomatic channels, written notice of termination and, in such event, this Convention shall cease to have effect:-

(a) in Singapore:

for any year of assessment beginning on or after the 1st January in the calendar year next following that in which such notice is given;

(b) in Switzerland:

for any fiscal year beginning on or after the 1st January in the calendar year next following that in which such notice is given.

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

DONE in duplicate this 25th day of November of the year one thousand nine hundred and seventy-five at Berne in the English and German languages, both texts being equally authentic.

*For the Government of
The Republic of Singapore:*

TAN KENG JIN

For the Swiss Federal Council:

KURT LOCHER

PROTOCOL (1975)

The Government of the Republic of Singapore and the Swiss Federal Council have agreed at the signing at Berne on 25th November, 1975, of the Convention between the two States for the avoidance of double taxation with respect to taxes on income and on capital upon the following provisions which should form an integral part of the said Convention.

(i) With respect to subparagraph (h) of paragraph 1 of Article 3

It is understood that the term "international traffic" shall not include all movements by a ship or aircraft between places in Singapore and one or more structures used for the exploration or exploitation of natural resources situated in waters adjacent to the territorial waters of Singapore.

(ii) With respect to paragraphs 2, 3 and 4 of Article 5

It is understood that the six months test referred to in subparagraph (h) of paragraph 2 and in paragraph 4 shall apply to each individual site or project. In determining how long

the site or project existed no account shall be taken of the time previously spent by the enterprise on other sites or projects if they are totally unconnected with it. A site or a project shall be regarded as a single unit, even if it is based on several contracts, provided that it forms a coherent whole, commercially and geographically.

It is further understood that the term "permanent establishment" shall not necessarily include a fixed place of business used only for one or more of the activities mentioned in subparagraphs (a) to (e) of paragraph 3.

In case of any difficulty or doubt, the matter shall be resolved in the manner provided for in Article 24.

(iii) With respect to paragraph 8 of Article 10 and paragraph 4 of Article 22

It is understood that the above provisions refer to Article VII, paragraph 3, of the Double Taxation Agreement between Singapore and Malaysia signed on 26th December, 1968, which provision effectively provides that a company which is a resident of Malaysia (or of Singapore) may when paying a dividend under the said Article declare itself to be a resident of Singapore (or of Malaysia).

(iv) With respect to Article 11

It is understood that Switzerland has taken by Decree of the Swiss Federal Council of 14th December, 1962, measures against the improper use of double taxation conventions which will also apply to this Convention.

DONE in duplicate this 25th day of November of the year one thousand nine hundred and seventy-five at Berne in the English and German languages, both texts being equally authentic.

*For the Government of
The Republic of Singapore:*

TAN KENG JIN

For the Swiss Federal Council:

KURT LOCHER