Chandrawat & Partners

INDIA- SINGAPORE

DOUBLE TAXATION AVOIDANCE AGREEMENT

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PREFACE

Double Tax Avoidance Agreement ("DTAA") is a tax treaty signed between two or more countries to help taxpayers avoid paying double taxes on the same income. A DTAA becomes applicable in cases where an individual is a resident of one nation, but earns income in another. DTAAs can either be comprehensive, encapsulating all income sources or limited to certain areas. India presently has DTAA with 120+ countries.

The government of India and the government of the Republic of Singapore for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains had singed a DTAA on 27 May, 1997. It has been amended thrice since, vide notifications dated 18 July, 2005, 1 September, 2011 and 23 March, 2017. The DTAA is based on the general principles laid down in the model draft of the Organization for Economic Cooperation and Development ("OECD") with suitable modifications as agreed upon by the contracting countries.

The DTAA has a supplementing synthesised text which specifically inculcates provisions of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting ("MLI") so as to align the DTAA with international standards of practice. The protocols amending the DTAA have brought about changes to the prevailing residence based tax regime and has given India a source-based right to tax capital gains which arise from the alienation of shares of an Indian resident company owned by a Singapore tax resident.

It further provides for (i) the grandfathering of investments made on or before March 31, 2017, (ii) a revised limitation of benefit clause, the conditions of which need to be fulfilled in order to obtain the benefit of the capital gains provisions, (iii) a transitory period from April 01, 2017 to March 31, 2019 during which a reduced rate of tax should be applicable on capital gains arising on the alienation of shares acquired on or after April 1, 2017, and (iv) explicit language allowing treaty provisions to be overridden by domestic anti-avoidance measures such as the General Anti-Avoidance Rule (GAAR), which came into effect from 1 April, 2017.

KEY HIGHLIGHTS

The DTAA provides significant relief to investors looking for avenues of cross-border investment i.e. Indian investors looking to invest in Singapore and vice-versa. Aside from tax relief, there are several other benefits that the India- Singapore DTAA offers to the concerned businesses. Highlights of the tax treaty are as follows:

01 TAXES COVERED

The DTAA covers the income tax and its surcharges in India. While in Singapore, it cover the income tax.

02 SCOPE OF THE DTAA

The tax treaty provisions apply to tax residents of Singapore and India. However, the benefits of the protocol do not extend to a shell company that claims to be a resident of either of the contracting countries. A shell company is any legal entity falling within the definition of 'resident' with negligible or nil business operations or with no real and continuous business activities carried out in that contracting country. A resident of a contracting country is deemed to be a shell company if its total annual expenditure on operations in that contracting country is less than S$200,000 or Rs. 50,00,000 as the case may be, in the immediately preceding period of 24 months from the date the gains arise.

03 TAXATION OF BUSINESS PROFITS

Business income or profits of an enterprise are taxable in the country in which the enterprise is resident. However, if the enterprise carries out business in the other contracting country through a permanent establishment situated in that contracting country, then the profits or income derived from that permanent establishment alone will be liable to tax in the other contracting country.

04 WITHHOLDING TAX RATES

Following are the withholding tax rates that have agreed upon in the DTAA-

- Dividend- a) 10%, if at least 25% of the shares of the company paying the dividend is held by the recipient company and b) 15%, in all other cases;
- Interests- a) 10%, if loan is granted by a bank or similar institute including an insurance company and b) 15%, in all other cases;
- Royalty- 10%;
- Fees for technical services- 10%.

05 CAPITAL GAINS

- Gains derived by a resident of one contracting country from the alienation of immovable property that is situated in the other contracting country may be taxed in that other country;
- Gains derived by an enterprise or resident of one contracting country from the alienation of movable property of its permanent establishment or fixed base that is situated in the other contracting country may be taxed in that other contracting country;
- Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft are taxable in the recipient's country of residence;
- Any other gains are taxable in the recipient's country of residence.

Note: Singapore has abolished capital gains tax.

06 MUTUAL AGREEMENT PROCEDURE

Where a person considers that the actions of one or both of the contracting states result or will result for him in taxation not with the provisions of this convention, he may, irrespective of the remedies provided by the domestic law of those states, present his case to the competent authority the contracting state which he is a resident.

07 EXCHANGE OF INFORMATION

- The tax authorities of the contracting countries shall exchange tax information as and when necessary.
- The information exchanged shall remain confidential and will only be disclosed to persons (including a court or administrative body) concerned with the assessment, collection, enforcement or prosecution in respect of the taxes covered by the DTAA.
- There will be no disclosure of any trade, business, industrial or professional secret or trade process.

08 LIMITATION OF BENEFITS

The protocol provides that grandfathered investments i.e. shares acquired on or before 1 April 2017 which are not subject to the provisions of the protocol will still be subject a revised limitation of benefit in order to avail of the capital gains tax benefit under the DTAA, which provides that:

- The benefit will not be available if the affairs of the Singapore resident entity were arranged with the primary purpose to take advantage of such benefit;
- The benefit will not be available to a shell or conduit company, being a legal entity with negligible or nil business operations or with no real and continuous business activities.

09 TAXATION OF GOVERNMENT SERVICE REMUNERATION AND PENSION

- Remuneration and pension paid by the government of one contracting country to any individual for services rendered on behalf of that government is taxable in that contracting country only, except in cases where the individual is a resident and a citizen of the other contracting country. In other words, remuneration and pension paid by the Government of India to any individual for services rendered on behalf of the Indian government is exempt Singapore tax, except in cases where the individual is resident in Singapore and is not a citizen of India. Similarly, remuneration and pension paid by the Government of Singapore to any individual for services rendered on behalf of the Singaporean government is exempt from tax in India, except in cases where the individual is resident in India and is not a Singapore citizen.
- However, these provisions do not apply to income from services rendered in connection with a government business enterprise (i.e. a trade or business carried on by the government for purposes of profit).

10 DOUBLE TAX RELIEF

- India: India offers its residents double taxation relief by deduction i.e. domestic tax is applied on the income after deducting the amount of Singaporean tax suffered.
- Singapore: Singapore offers its residents tax credit relief for double taxation of income. In other words, Indian tax paid in respect of income from sources within India shall be allowed as a credit against Singaporean tax payable in respect of that income.

11 TAXATION OF NON-GOVERNMENT PENSION AND ANNUITY

Non-government pension and annuity (i.e. pension and annuity that is not connected to services rendered in the discharge of governmental functions) is subject to taxation in the recipient's country of residence.

INDIA-SINGAPORE DTAA

(COMPREHENSIVE AGREEMENT)

The original text of the DTAA as signed between India and Singapore can be referred to below:

SINGAPORE

AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION AND PREVENTION OF FISCAL EVASION WITH FOREIGN COUNTRIES - SINGAPORE

Whereas the annexed Agreement between the Government of the Republic of India and the Government of the Republic of Singapore for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income has entered into force on 27th May, 1994 on the notification by both the Contracting States to each other of the completion of the procedures required by their respective laws, as required by the said Agreement;

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby directs that all the provisions of the said Agreement shall be given effect to in the Union of India.

Notification : No. GSR 610(E), Dated 8-8-1994 As Amended by Notification No. SO 1022(E), Dated 18-7-2005; No. S.O. 2031(E), Dated 1-9-2011 and No. S.O. 935(E), Dated 23-3-2017

ANNEXURE

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

The Government of the Republic of India and the Government of the Republic of Singapore, desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed as follows :

ARTICLE 1

PERSONAL SCOPE

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

ARTICLE 2

TAXES COVERED

1. The taxes to which this Agreement shall apply are :

(a) in India :

income-tax including any surcharge thereon

(hereinafter referred to as "Indian tax") ;

(b) in Singapore :

the income-tax (hereinafter referred to as "Singapore tax").

2. The Agreement shall also apply to any identical or substantially similar taxes which are imposed by either Contracting

State after the date of signature of the present Agreement in addition to, or in place of, the taxes referred to in paragraph 1. The competent authorities of the Contracting States shall notify each other of any substantial changes which are made in their respective taxation laws.

ARTICLE 3

GENERAL DEFINITIONS

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

(a) the term "India" means the territory of India and includes the territorial sea and air space above it, as well as any other maritime zone in which India has sovereign rights, other rights and jurisdictions, according to the Indian law and in accordance with international law ;

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

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

(d) the term "company" means any body corporate or any entity which is treated as a company or body corporate under the taxation laws in force in the respective Contracting States ;

(e) the term "competent authority" means in the case of India, the Central Government in the Ministry of Finance (Department of Revenue) or their authorised representative; and in the case of Singapore, the Minister for Finance or his authorised representative ;

(f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively and enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(g) the term "fiscal year" means :

(i) in the case of India, "previous year" as defined under section 3 of the Income-tax Act, 1961 ;

(ii) in the case of Singapore, calendar year ;

(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 "national" means any individual, possessing the nationality of a Contracting State and any legal person, partnership or association deriving its status as such from the laws in force in the Contracting State ;

(j) the term "person" includes an individual, a company, a body of persons and any other entity which is treated as a taxable unit under the taxation laws in force in the respective Contracting States ;

(k) the term "tax" means Indian tax or Singapore tax, as the context requires, but shall not include any amount which is payable in respect of any default or omission in relation to the taxes to which this Agreement applies or which represents a penalty imposed relating to those taxes.

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

ARTICLE 4

RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who is a resident of a Contracting State in accordance with the taxation laws of that State.

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 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 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 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 of the State of which he is a national ;

(d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

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 the enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially :

(a) a place of management ;

(b) a branch ;

(c) an office ;

(d) a factory ;

(e) a workshop ;

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

(g) a warehouse in relation to a person providing storage facilities for others;

(h) a farm, plantation or other place where agriculture, forestry, plantation or related activities are carried on ;

(i) premises used as a sales outlet or for soliciting and receiving orders ;

(j) an installation or structure used for the exploration or exploitation of natural resources but only if so used for a period of more than 120 days in any fiscal year.

3. A building site or construction, installation or assembly project constitutes a permanent establishment only if it continues for a period of more than 183 days in any fiscal year.

4. An enterprise shall be deemed to have a permanent establishment in a Contracting State and to carry on business through that permanent establishment if it carries on supervisory activities in that Contracting State for a period of more than 183 days in any fiscal year in connection with a building site or construction, installation or assembly project which is being undertaken in that Contracting State.

5. Notwithstanding the provisions of paragraphs 3 and 4, and enterprise shall be deemed to have a permanent establishment in a Contracting State and to carry on business through that permanent establishment if it provides services or facilities in that Contracting State for a period of more than 183 days in any fiscal year in connection with the exploration, exploitation or extraction of mineral oils in that Contracting State.

6. An enterprise shall be deemed to have a permanent establishment in a Contracting State if it furnishes services, other than services referred to in paragraphs 4 and 5 of this Article and technical services as defined in Article 12, within a

Contracting State through employees or other personnel, but only if :

(a) activities of that nature continue within that Contracting State for a period or periods aggregating more than 90 days in any fiscal year; or

(b) activities are performed for a related enterprise (within the meaning of Article 9 of this Agreement) for a period or periods aggregating more than 30 days in any fiscal year.

7. 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 occasional delivery of goods or merchandise belonging to the enterprise ;

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

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

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or 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 for similar activities which have a preparatory or auxiliary character, for the enterprise.

However, the provisions of sub-paragraphs (a) to (e) shall not be applicable where the enterprise maintains any other fixed place of business in the other Contracting State through which the business of the enterprise is wholly or partly carried on.

8. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 9 applies - is acting in a Contracting State on behalf of an enterprise of the other Contracting State that enterprise shall be deemed to have a permanent establishment in the first-mentioned State, if —

(a) he has and habitually exercises in that State an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise ;

(b) he has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise ; or

(c) he habitually secures orders in the first-mentioned State, wholly or almost wholly for the enterprise itself or for the enterprise and other enterprises controlling, controlled by, or subject to the same common control, as that enterprise.

9. 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 provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise itself or on behalf of that enterprise and other enterprises controlling, controlled by, or subject to the same common control, as that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.

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

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property 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 also 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 it directly or indirectly 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. In any case where the correct amount of profits attributable to a permanent establishment is incapable of determination or the determination thereof presents exceptional difficulties, the profits attributable to the permanent establishment may be estimated on a reasonable basis.

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 business 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, in accordance with the provisions of and subject to the limitations of the taxation laws of that State.

4. Insofar as it has been customary in the 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.

8. For the purpose of paragraph 1, the term "directly or indirectly attributable to the permanent establishment" includes profits arising from transactions in which the permanent establishment has been involved and such profits shall be regarded as attributable to the permanent establishment to the extent appropriate to the part played by the permanent establishment in those transactions, even if those transactions are made or placed directly with the overseas head office of the enterprise rather than with the permanent establishment.

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 engaged in the operation of ships or aircraft.

3. Interest on funds connected with the operation of ships or aircraft in international traffic shall be regarded as profits derived from the operation of such ships or aircraft, and the provisions of Article 11 shall not apply in relation to such interest.

4. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic shall mean profits derived from the transportation by sea or air of passengers, mail, livestock or goods carried on by the owners or lessees or charterers of the ships or aircraft, including profits from :

(a) the sale of tickets for such transportation on behalf of other enterprises;

(b) the incidental lease of ships or aircraft used in such transportation;

(c) the use, maintenance or rental or containers (including trailers and related equipment for the transport of containers) in connection with such transportation; and

(d) any other activity directly connected with such transportation.

ARTICLE 9

ASSOCIATED ENTERPRISES

1[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[2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such

adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.]

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1. Existing paragraph re-numbered as paragraph 1 by Notification No. SO 935(E) [No.18/2017 (500/139/2002-FTD-II], dated 23-3-2017, w.r.e.f. 27-2-2017.

2. Paragraph 2 inserted by Notification No. SO 935(E) [No.18/2017 (500/139/2002-FTD-II], dated 23-3-2017, w.r.e.f. 27-2-2017.

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 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 beneficial owner is a company which owns at least 25 per cent of the shares of the company paying the dividends;

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

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

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

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

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

6. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other 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 so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

7. (a) Dividends shall be deemed to arise in India if they are paid by a company which is a resident of India ;

(b) Dividends shall be deemed to arise in Singapore :

(i) if they are paid by a company which is a resident of Singapore ; or

(ii) if they are paid by a company which is a resident of Malaysia out of profits arising in Singapore and qualifying as dividends arising in Singapore under Article VII of the Agreement for the Avoidance of Double Taxation between Singapore and Malaysia signed on 26th December, 1968.

ARTICLE 11

INTEREST

1. Interest arising in 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 :

(a) 10 per cent of the gross amount of the interest if such interest is paid on a loan granted by a bank carrying on a bona fide banking business or by a similar financial institution (including an insurance company) ;

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

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

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, 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.

5. Interest shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a political sub-division, a local authority, a statutory body 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 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.

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 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 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 AND FEES FOR TECHNICAL SERVICES

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

1[2. However, such royalties and fees for technical services may also be taxed in the Contracting State in which they arise and according to the laws of that Contracting State, but if the recipient is the beneficial owner of the royalties or fees for technical services, the tax so charged shall not exceed 10 per cent.]

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 :

(a) any copyright of a literary, artistic or scientific work, including cinematograph film or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience, including gains derived from the alienation of any such right, property or information ;

(b) any industrial, commercial or scientific equipment, other than payments derived by an enterprise from activities described in paragraph 4(b) or 4(c) of Article 8.

4. The term "fees for technical services" as used in this Article means payments of any kind to any person in consideration for services of a managerial, technical or consultancy nature (including the provision of such services through technical or other personnel) if such services :

(a) are ancillary and subsidiary to the application or enjoyment of the right, property or information for which a payment described in paragraph 3 is received ; or

(b) make available technical knowledge, experience, skill, know-how or processes, which enables the person acquiring the services to apply the technology contained therein ; or

(c) consist of the development and transfer of a technical plan or technical design, but excludes any service that does not enable the person acquiring the service to apply the technology contained therein.

For the purposes of (b) and (c) above, the person acquiring the service shall be deemed to include an agent, nominee, or transferee of such person.

5. Notwithstanding paragraph 4, "fees for technical services" does not include payments :

(a) for services that are ancillary and subsidiary, as well as inextricably and essentially linked, to the sale of property other than a sale described in paragraph 3(a) ;

(b) for services that are ancillary and subsidiary to the rental of ships, aircraft, containers or other equipment used in connection with the operation of ships or aircraft in international traffic ;

(c) for teaching in or by educational institutions ;

(d) for services for the personal use of the individual or individuals making the payment;

(e) to an employee of the person making the payments or to any individual or firm of individuals (other than a company) for professional services as defined in Article 14 ;

(f) for services rendered in connection with an installation or structure used for the exploration or exploitation of natural resources referred to in paragraph 2(j) of Article 5 ;

(g) for services referred to in paragraphs 4 and 5 of Article 5.

6. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties or fees for technical services, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties or fees for technical services 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, property or contract in respect of which the royalties or fees for technical services 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. Royalties and fees for technical services shall be deemed to arise in a Contracting State when the payer is that State

itself, a political sub-division, a local authority, a statutory body or a resident of that State. Where, however, the person paying the royalties or fees for technical services, 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 or fees for technical services was incurred, and such royalties or fees for technical services are borne by such permanent establishment or fixed base, then such royalties or fees for technical services shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

8. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of royalties or fees for technical services paid exceeds the amount which would have been paid 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.

1.Substituted by Notification No. SO 1022(E), dated 18-7-2005.

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 together with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State of which the alienator is a resident.

4. 1[***]

2[4A. Gains from the alienation of shares acquired before 1 April 2017 in a company which is a resident of a Contracting State shall be taxable only in the Contracting State in which the alienator is a resident.

4B. Gains from the alienation of shares acquired on or after 1 April 2017 in a company which is a resident of a Contracting State may be taxed in that State.

4C. However, the gains referred to in paragraph 4B of this Article which arise during the period beginning on 1 April 2017 and ending on 31 March 2019 may be taxed in the State of which the company whose shares are being alienated is a resident at a tax rate that shall not exceed 50% of the tax rate applicable on such gains in that State.

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

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1. Paragraph 4 omitted by Notification No. SO 935(E) [No.18/2017 (500/139/2002-FTD-II], dated 23-3-2017, w.e.f. 1-4-2017. Prior to its omission, said paragraph, as amended by Notification No.So 1022(E), dated 18-7-2005, read as under :

"4. Gains derived by resident of a Contracting State from the alienation of any property other than those mentioned in paragraphs 1, 2 and 3 of this Article shall be taxable only in that State."

2. Paragraphs 4A, 4B, 4C and 5 inserted by Notification No. SO 935(E) [No.18/2017 (500/139/2002-FTD-II], dated 23-3-2017, w.e.f. 1-4-2017.

ARTICLE 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is a resident of a Contracting State from the performance of professional services or other independent activities of a similar 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 Contracting 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 Contracting State is for a period or periods amounting to or exceeding in the aggregate 90 days in the relevant fiscal year, 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 independent scientific, literary, artistic, educational or teaching activities, as well as the independent activities of physicians, surgeons, lawyers, engineers, architects, dentists and accountants.

ARTICLE 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21, 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 relevant fiscal year ; 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. In the case of a recipient who satisfies all the conditions under sub-paragraphs (a), (b) and (c) of paragraph 2, if his remuneration is deductible as an expense against fees for technical services (dealt with under Article 12) derived by his employer and the employer has no permanent establishment in the other Contracting State, the remuneration may, notwithstanding the provisions of paragraph 2, be taxed in that State. In such case, the tax so charged shall not exceed 15 per cent of the gross amount of the remuneration.

4. 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 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 SPORTSPERSONS

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

2. Where income in respect of or in connection with personal activities exercised by an artiste or a sportsperson accrues not to the artiste or sportsperson 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 artistes or sportspersons are exercised.

3. Notwithstanding the provisions of paragraph 1, income derived by an artiste or a sportsperson who is a resident of a Contracting State from his personal activities as such exercised in the other Contracting State, shall be taxable only in the first-mentioned State, if the activities in the other State are supported wholly or substantially from the public funds of the first-mentioned State, including any of its political sub-divisions, local authorities or statutory bodies.

4. Notwithstanding the provisions of paragraph 2 and Articles 7, 14 and 15, where income in respect of or in connection with personal activities exercised by an artiste or a sportsperson in a Contracting State accrues not to the artiste or sportsperson himself but to another person, that income shall be taxable only in the other Contracting State, if that other person is supported wholly or substantially from the public funds of that other State, including any of its political sub-divisions, local authorities or statutory bodies.

ARTICLE 18

REMUNERATION AND PENSIONS IN RESPECT OF GOVERNMENT SERVICE

1. (a) Remuneration, other than a pension, paid by a Contracting State or a political sub-division, a local authority or a statutory body thereof to an individual in respect of services rendered to that State or sub-division or authority or body shall be taxable only in that State.

(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other 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) Any pension paid by, or out of funds created by a Contracting State or a political sub-division, a local authority or a statutory body thereof to an individual in respect of services rendered to that State or sub-division or authority or body shall be taxable only in that State.

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

3. The provisions of Articles 15, 16 and 19 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political sub-division or a local authority or a statutory body thereof.

ARTICLE 19

NON-GOVERNMENT PENSIONS AND ANNUITIES

1. Any pension, other than a pension referred to in Article 18, or any annuity derived by a resident of a Contracting State from sources within the other Contracting State may be taxed only in the first-mentioned State.

2. The term "pension" means a periodic payment made in consideration of past services or by way of compensation for

injuries received in the course of performance of services.

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

ARTICLE 20

STUDENTS AND TRAINEES

1. An individual who is or was a resident of a Contracting State immediately before making a visit to the other Contracting State and is temporarily present in the other State solely :—

(a) as a student at a recognised university, college, school or other similar recognised educational institution in that other State ;

(b) as a business or technical apprentice ; or

(c) as a recipient of a grant, allowance or award for the primary purpose of study, research or training from the Government of either State or from a scientific, educational, religious or charitable organisation or under a technical assistance programme entered into by the Government of either State ;

shall be exempt from tax in that other State on :

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

(ii) the amount of such grant, allowance or award; and

(iii) any remuneration not exceeding United States Dollars five hundred per month or its equivalent in local currency in respect of services in that other State provided the services are performed in connection with his study, research or training or are necessary for the purposes of his maintenance.

2. The benefits of this Article shall extend only for such period of time as may be reasonable or customarily required to complete the education or training undertaken, but in no event shall any individual have the benefits of this Article for more than five consecutive years from the date of his first arrival in that other Contracting State.

ARTICLE 21

TEACHERS AND RESEARCHERS

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

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

ARTICLE 22

INCOME OF GOVERNMENT

1. The Government of a Contracting State shall be exempt from tax in the other Contracting State in respect of income derived by that Government from sources within the other State.

2. The types of income to which paragraph 1 applies are:—

(a) dividends under Article 10 ;

(b) interest under Article 11 ; and

(c) any other income or gains derived from transactions not pursuant to the conduct of commercial activities.

3. For the purposes of paragraph 1, the term "Government" :—

(a) in the case of Singapore means the Government of Singapore and shall include :

(i) the Monetary Authority of Singapore and the Board of Commissioners of Currency;

(ii) the Government of Singapore Investment Corporation Pvt. Ltd. to the extent it is not engaged in the conduct of commercial activities ;

(iii) a statutory body not engaged in the conduct of commercial activities ;

(iv) any other institution or body as may be agreed from time to time between the competent authorities of the Contracting States ;

(b) in the case of India means the Government of India and shall include :

(i) the Governments of the States and the Union Territories of India;

(ii) the Reserve Bank of India or any of its subsidiaries which is not engaged in the conduct of commercial activities;

(iii) a statutory body not engaged in the conduct of commercial activities;

(iv) any other institution or body as may be agreed from time to time between the competent authorities of the Contracting States.

ARTICLE 23

INCOME NOT EXPRESSLY MENTIONED

Items of income which are not expressly mentioned in the foregoing Articles of this Agreement may be taxed in accordance with the taxation laws of the respective Contracting States.

ARTICLE 24

LIMITATION OF RELIEF

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

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

1[ARTICLE 24A

1. A resident of a Contracting State shall not be entitled to the benefits of paragraph 4A or paragraph 4C of Article 13 of this Agreement if its affairs were arranged with the primary purpose to take advantage of the benefits in the said paragraph 4A or paragraph 4C of Article 13 of this Agreement, as the case may be.

2. A shell or conduit company that claims it is a resident of a Contracting State shall not be entitled to the benefits of paragraph 4A or paragraph 4C of Article 13 of this Agreement. A shell or conduit company is any legal entity falling within the definition of resident with negligible or nil business operations or with no real and continuous business activities carried out in that Contracting State.

3. A resident of a Contracting State is deemed to be a shell or conduit company if its annual expenditure on operations in that Contracting State is less than S$ 200,000 in Singapore or Indian Rs. 5,000,000 in India, as the case may be:

(a) in the case of paragraph 4A of Article 13 of this Agreement, for each of the 12 month periods in the immediately preceding period of 24 months from the date on which the gains arise;

(b) in the case of paragraph 4C of Article 13 of this Agreement, for the immediately preceding period of 12 months from the date on which the gains arise.

4. A resident of a Contracting State is deemed not to be a shell or conduit company if:

(a) it is listed on a recognised stock exchange of the Contracting State; or

(b) its annual expenditure on operations in that Contracting State is equal to or more than S$ 200,000 in Singapore or Indian Rs. 5,000,000 in India, as the case may be:

(i) in the case of paragraph 4A of Article 13 of this Agreement, for each of the 12-month periods in the immediately preceding period of 24 months from the date on which the gains arise;

(ii) in the case of paragraph 4C of Article 13 of this Agreement, for the immediately preceding period of 12 months from the date on which the gains arise.

5. For the purpose of paragraph 4(a) of this Article, a recognised stock exchange means:

(a) in the case of Singapore, the securities market operated by the Singapore Exchange Limited, Singapore Exchange Securities Trading Limited and The Central Depository (Pte) Limited; and

(b) in the case of India, a stock exchange recognised by the Securities and Exchange Board of India.

Explanation: The cases of legal entities not having bona fide business activities shall be covered by paragraph 1 of this Article.]

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1. Article 24A inserted by Notification No. SO 935(E) [No.18/2017 (500/139/2002-FTD-II], dated 23-3-2017, w.e.f. 1-4-2017.

ARTICLE 25

AVOIDANCE OF DOUBLE TAXATION

1. The laws in force in either of the Contracting States shall continue to govern the taxation of income in the respective Contracting States except where express provision to the contrary is made in this Agreement.

2. Where a resident of India derives income which, in accordance with the provisions of this Agreement, may be taxed in Singapore, India shall allow as a deduction from the tax on the income of that resident an amount equal to the Singapore tax paid, whether directly or by deduction. Where the income is a dividend paid by a company which is a resident of Singapore to a company which is a resident of India and which owns directly or indirectly not less than 25 per cent of the share capital of the company paying the dividend, the deduction shall take into account the Singapore tax paid in respect of the profits out of which the dividend is paid. Such deduction in either case shall not, however, exceed that part of the tax (as computed before the deduction is given) which is attributable to the income which may be taxed in Singapore.

3. For the purposes of paragraph 2 of this Article, "Singapore tax paid" shall be deemed to include any amount of tax which would have been payable but for the reduction or exemption of Singapore tax granted under :

(a) the provisions of the Economic Expansion Incentives (Relief from Income-tax) Act and the provisions of sections 13(1)(t), 13(1)(u), 13(1)(v), 13(2), 13A, 13B, 13F, 14B, 14E, 43A, 43C, 43D, 43E, 43F, 43G, 43H, 43-I, 43J and 43K of the Income-tax Act, insofar as they were in force and have not been modified since the date of signature of this Agreement, or have been modified in minor respects so as not to affect their general character.

(b) any other provision which may subsequently be enacted granting an exemption or reduction of tax which is agreed by the competent authorities of the Contracting States to be of a substantially similar character to any provision referred to in sub-paragraph (a) of this paragraph, if such provision has not been modified thereafter or has been modified only in minor respects so as not to affect its general character.

4. Subject to the provisions of the laws of Singapore regarding the allowance as a credit against Singapore tax of tax paid in any country other than Singapore, Indian tax paid, whether directly or by deduction, in respect of income from sources within India shall be allowed as a credit against Singapore tax payable in respect of that income. Where such income is a dividend paid by a company which is a resident of India to a resident of Singapore which owns not less than 25 per cent of the share capital of the company paying the dividends, the credit shall take into account Indian tax paid in respect of its profits by the company paying the dividends.

5. For the purposes of paragraph 4 of this Article the term "Indian tax paid" shall be deemed to include any amount of tax which would have been payable in India but for a deduction allowed in computing the taxable income or an exemption or reduction of tax granted for that year in question :

(a) Sections 10(4), 10(4B), 10(5B), 10(15)(iv), 10A, 10B, 33AB, 80-I and 80-IA, insofar as these provisions were in force and have not been modified since the date of signature of this Agreement, or have been modified only in minor respects so as not to affect their general character,

(b) any other provision which may subsequently be enacted granting an exemption or reduction of tax which is agreed by the competent authorities of the Contracting States to be of a substantially similar character to a provision referred to in sub-paragraph (a) of this paragraph, if such provision has not been modified thereafter or has been modified only in minor respects so as not to affect its general character.

6. Income which, in accordance with the provisions of this Agreement, is not to be subjected to tax in a Contracting State, may be taken into account for calculating the rate of tax to be imposed in that Contracting State.

ARTICLE 26

NON-DISCRIMINATION

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

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities in the same circumstances or under the same conditions. This provision shall not be construed as preventing a Contracting State from charging the profits of a permanent establishment which an enterprise of the other Contracting State has in the first-mentioned State at a rate of tax which is higher than that imposed on the profits of a similar enterprise of the first-mentioned Contracting State, nor as being in conflict with the provisions of paragraph 3 of Article 7 of this Agreement.

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

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

(a) obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs, reductions and deductions which it grants to its own residents;
(b) affecting any provisions of the tax laws of the respective Contracting States regarding the imposition of tax on non-resident persons as such;
(c) obliging a Contracting State to grant to nationals of the other Contracting State those personal allowances, reliefs, reductions and deductions for tax purposes which it grants to its own citizens who are not resident in that State or to such other persons as may be specified in the taxation laws of that State; and
(d) affecting any provisions of the tax laws of the respective Contracting States regarding any tax concessions granted to persons fulfilling specified conditions.
5. In this Article, the term "taxation" means taxes which are the subject of this Agreement.

ARTICLE 27

MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Agreement, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident. This case must be presented within three years of the date of receipt of notice of the action which gives rise to taxation not in accordance with 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 an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to avoidance of taxation not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the national laws of the Contracting States.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.
4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

1[ARTICLE 28

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political sub-divisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.
2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight

of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

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

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

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

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

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

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1. Substituted by Notification No. SO 2031(E), dated 1-9-2011. Prior to its substitution, article 28 read as under :

"ARTICLE 28 - **EXCHANGE OF INFORMATION**

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

2. The exchange of information or documents shall be either on a routine basis or on request with reference to particular cases or both.

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

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

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

(c) to supply information or documents 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."

1[Article 28A

MISCELLANEOUS

This Agreement shall not prevent a Contracting State from applying its domestic law and measures concerning the prevention of tax avoidance or tax evasion."

Article 6

Each of the Contracting States shall complete the procedures required by its law for the bringing into force of this Protocol and notify the other State about such completion of the procedures. This Protocol shall enter into force on the date of the later of these notifications. If this Protocol does not enter into force as at 31 March 2017 due to either of the aforesaid notifications remaining pending, this Protocol shall enter into force on 1 April 2017.

Article 7

This Protocol, which shall form an integral part of the Agreement, shall remain in force as long as the Agreement remains in force and shall apply as long as the Agreement itself is applicable.]

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1. Article 28A inserted by Notification No. SO 935(E) [No.18/2017 (500/139/2002-FTD-II], dated 23-3-2017, w.r.e.f. 27-2-2017.

ARTICLE 29

DIPLOMATIC AND CONSULAR OFFICIALS

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

ARTICLE 30

ENTRY INTO FORCE

1. Each of the Contracting States shall notify the other the completion of the procedures requires by its law for the bringing into force of this Agreement. This Agreement shall enter into force on the date of the later of these notifications and shall thereupon have effect :

(a) in India, in respect of income arising in any fiscal year beginning on or after the first day of April, 1994;

(b) in Singapore, in respect of income arising in any fiscal year beginning on or after the first day of January, 1994.

2. The Agreement between the Government of the Republic of India and the Government of the Republic of Singapore for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed in Singapore on 20th April, 1981 shall terminate and cease to be effective from the date on which this Agreement comes into effect.

ARTICLE 31

TERMINATION

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

(a) in India, in respect of income arising in any fiscal year beginning on or after the 1st day of April next following the date

on which the notice of termination is given;
(b) in Singapore, in respect of income arising in any fiscal year beginning on or after the 1st day of January next following the date on which the notice of termination is given.

IN WITNESS whereof the undersigned, being duly authorised thereto, have signed the present Agreement.

DONE in duplicate at India this twenty-fourth day of January, one thousand nine hundred and ninety-four in the Hindi and English languages, both texts being equally authentic. In the case of divergence between the two texts, the English text shall be the operative one.

PROTOCOL

Whereas the annexed Protocol amending the Agreement between the Government of the Republic of India and the Government of the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income shall enter into force on 1st August, 2005 under Article 7 of the Protocol amending the Agreement for giving effect to the provisions of the said Protocol;

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby directs that all the provisions of the said Protocol amending the Agreement between the Government of the Republic of India and the Government of the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income shall be given effect to in the Union of India with effect from the 1st day of August, 2005.

ANNEXURE

PROTOCOL AMENDING THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME SIGNED IN INDIA ON 24TH JANUARY, 1994

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

Desiring to conclude a Protocol to amend the Agreement between the Government of the Republic of India and the Government of the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed in India on 24th January, 1994 (hereinafter referred to as "the Agreement"),

Have agreed as follows:

Article 1 1[***]

ARTICLE 22[***]

Article 3 3[***]

ARTICLE 4

Paragraph 2 of Article 12 (Royalties and Fees for Technical Services) of the Agreement shall be deleted and replaced by the following paragraph:

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

Article 5 4[***]

Article 6 5[***]

ARTICLE 7

This Protocol, which shall form an integral part of the Agreement, shall come into force on 1st August, 2005.

In witness whereof, the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

as the context requires;

(d) the term "person" includes an individual, a company, a body of persons and any other entity which is treated as a taxable unit under the taxation laws in force in the respective Contracting States;

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

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

(g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise 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 India: the Finance Minister, Government of India, or his authorized representative;

(ii) in Cyprus: the Minister of Finance or his authorized representative;

(j) 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;

(k) the term "tax" means Indian or Cyprus tax, as the context requires, but shall not include any amount which is payable in respect of any default or omission in relation to the taxes to which this Agreement applies or which represents a penalty or fine imposed relating to those taxes;

(l) The term "fiscal year" means:

(i) In the case of India: the financial year beginning on the 1st day of April;

(ii) In the case of Cyprus: the year of assessment beginning on the 1st day of January.

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 and any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

ARTICLE 4

RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

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

Done at New Delhi, India, this twenty-ninth day of June, 2005, in two originals in English language, each text being equally authentic.

Whereas the Second Protocol amending the agreement between the Government of the Republic of India and the Government of the Republic of Singapore for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (hereinafter referred to as "Protocol") signed in India on the 24th day of June, 2011 shall enter into force on the 1st day of September, 2011, being the first day of the month after the date of the later of the notifications after completion of the procedures as required by the laws of the respective countries for the entry into force of the Protocol, in accordance with the provisions specified in Article 3 of the Protocol.

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies that all the provisions of the Protocol annexed hereto shall be given effect to in the Union of India for taxable periods falling after 1st January, 2008, that is, Financial Year 2008-09 and subsequent financial years in accordance with the provisions specified in Article 3 of the Protocol.

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

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

Desiring to conclude a Second Protocol to amend the Agreement between the Government of the Republic of India and the Government of the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at India on 24 January, 1994, as amended by the Protocol signed at India on 29 June, 2005 (hereinafter referred to as "the Agreement"),

Have agreed as follows:

Article 1

Article 28 of the Agreement shall be deleted and replaced by:

"ARTICLE 28

EXCHANGE OF INFORMATION

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

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

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:
(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).
4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.
5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person."

Article 2

Article 2 of the Protocol to the Agreement, signed at India on 29 June, 2005, shall be deleted.

Article 3

Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Protocol. This Protocol shall enter into force on the first day of the month after the date of the latter of these notifications. The provisions of this Protocol shall apply to taxes relating to taxable periods beginning on or after 1 January of the three calendar years immediately preceding the calendar year of the entry into force of this Protocol.

Article 4

This Protocol, which shall form an integral part of the Agreement, shall remain in force as long as the Agreement remains in force and shall apply as long as the Agreement itself is applicable.

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

DONE in duplicate at New Delhi on this 24th day of June, 2011, in the Hindi and English languages, both texts being equally authentic. In the case of divergence between the two texts, the English text shall be the operative one.
Whereas, a Third Protocol amending the Agreement between the Government of the Republic of India and the Government of the Republic of Singapore for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income was signed at New Delhi on the 30th day of December, 2016 (hereinafter referred to as the Third Protocol);
And whereas, the Third Protocol entered into force on the 27th day of February, 2017, being the date of the later of the notifications of the completion of the procedures as required by the respective laws for the entry into force of the Third

Protocol, in accordance with Article 6 of the Third Protocol;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies that all the provisions of the Third Protocol, as annexed hereto, shall be given effect to in the Union of India.

Annexure

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

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

Desiring to conclude a Third Protocol to amend the Agreement between the Government of the Republic of India and the Government of the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at India on 24 January 1994, as amended by the Protocol signed at India on 29 June 2005 (hereinafter referred to as "the 2005 Protocol") and by the Second Protocol signed at India on 24 June 2011 (the Agreement so amended hereinafter referred to as "the Agreement"),

Have agreed as follows:

ARTICLE 1

1. The existing paragraph of Article 9 - Associated Enterprises of the Agreement shall be numbered as paragraph 1; and

2. After the said paragraph 1, the following paragraph shall be inserted:

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

ARTICLE 2

Article 13 - Capital Gains of the Agreement shall be amended, with effect from 1 April 2017:

(i) by deleting paragraph 4; and

(ii) by inserting the following paragraphs:

"4A. Gains from the alienation of shares acquired before 1 April 2017 in a company which is a resident of a Contracting State shall be taxable only in the Contracting State in which the alienator is a resident.

4B. Gains from the alienation of shares acquired on or after 1 April 2017 in a company which is a resident of a Contracting State may be taxed in that State.

4C. However, the gains referred to in paragraph 4B of this Article which arise during the period beginning on 1 April 2017 and ending on 31 March 2019 may be taxed in the State of which the company whose shares are being alienated is a resident at a tax rate that shall not exceed 50% of the tax rate applicable on such gains in that State.

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

ARTICLE 3

The Agreement is amended by adding after Article 24, the following Article, with effect from 1 April 2017:

"ARTICLE 24A

1. A resident of a Contracting State shall not be entitled to the benefits of paragraph 4A or paragraph 4C of Article 13 of this Agreement if its affairs were arranged with the primary purpose to take advantage of the benefits in the said paragraph 4A or paragraph 4C of Article 13 of this Agreement, as the case may be.

2. A shell or conduit company that claims it is a resident of a Contracting State shall not be entitled to the benefits of paragraph 4A or paragraph 4C of Article 13 of this Agreement. A shell or conduit company is any legal entity falling within the definition of resident with negligible or nil business operations or with no real and continuous business activities carried out in that Contracting State.

3. A resident of a Contracting State is deemed to be a shell or conduit company if its annual expenditure on operations in that Contracting State is less than S$ 200,000 in Singapore or Indian Rs. 5,000,000 in India, as the case may be:

(a) in the case of paragraph 4A of Article 13 of this Agreement, for each of the 12-month periods in the immediately preceding period of 24 months from the date on which the gains arise;

(b) in the case of paragraph 4C of Article 13 of this Agreement, for the immediately preceding period of 12 months from the date on which the gains arise.

4. A resident of a Contracting State is deemed not to be a shell or conduit company if:

(a) it is listed on a recognised stock exchange of the Contracting State; or

(b) its annual expenditure on operations in that Contracting State is equal to or more than S$ 200,000 in Singapore or Indian Rs. 5,000,000 in India, as the case may be:

(i) in the case of paragraph 4A of Article 13 of this Agreement, for each of the 12-month periods in the immediately preceding period of 24 months from the date on which the gains arise;

(ii) in the case of paragraph 4C of Article 13 of this Agreement, for the immediately preceding period of 12 months from the date on which the gains arise.

5. For the purpose of paragraph 4(a) of this Article, a recognised stock exchange means:

(a) in the case of Singapore, the securities market operated by the Singapore Exchange Limited, Singapore Exchange Securities Trading Limited and The Central Depository (Pte) Limited; and

(b) in the case of India, a stock exchange recognised by the Securities and Exchange Board of India.

Explanation: The cases of legal entities not having bona fide business activities shall be covered by paragraph 1 of this Article."

ARTICLE 4

Articles 1, 3, 5 and 6 of the 2005 Protocol shall be deleted, with effect from 1 April 2017.

ARTICLE 5

The Agreement is amended by adding after Article 28, the following Article:

"ARTICLE 28A

MISCELLANEOUS

This Agreement shall not prevent a Contracting State from applying its domestic law and measures concerning the

prevention of tax avoidance or tax evasion."

ARTICLE 6

Each of the Contracting States shall complete the procedures required by its law for the bringing into force of this Protocol and notify the other State about such completion of the procedures. This Protocol shall enter into force on the date of the later of these notifications. If this Protocol does not enter into force as at 31 March 2017 due to either of the aforesaid notifications remaining pending, this Protocol shall enter into force on 1 April 2017.

ARTICLE 7

This Protocol, which shall form an integral part of the Agreement, shall remain in force as long as the Agreement remains in force and shall apply as long as the Agreement itself is applicable.

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

DONE in duplicate at New Delhi on this 30th day of December, 2016, in the English and Hindi languages, both texts being equally authentic. In the case of divergence between the two texts, the English text shall be the operative one.

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1. Article 1 omitted by Notification No. SO 935(E) [No.18/2017 (500/139/2002-FTD-II], dated 23-3-2017, w.e.f. **1-4-2017**. Prior to its omission, said Article read as under :

"ARTICLE 1 - Paragraphs 4, 5 and 6 of Article 13 (Capital Gains) of the Agreement shall be deleted and replaced by the following:

4. Gains derived by a resident of a Contracting State from the alienation of any property other than those mentioned in paragraphs 1, 2 and 3 of this Article shall be taxable only in that State."

2. Omitted by Notification No. SO 2031, dated 1-9-2011. Prior to its omission, Article 2 read as under :-

"ARTICLE 2 - With regard to the Article on "Exchange of Information" (Article 28), on a request made by a Contracting State, the Revenue Authority of the other Contracting State shall collect, and share with the first mentioned Contracting State, through its Competent Authority, whatever information that it is competent to obtain for its own purposes under its law."

3. Article 3 omitted by Notification No. SO 935(E) [No.18/2017 (500/139/2002-FTD-II], dated 23-3-2017, w.e.f. **1-4-2017**. Prior to its omission, said Article read as under :

"ARTICLE 3 - 1. A resident of a Contracting State shall not be entitled to the benefits of Article 1 of this Protocol if its affairs were arranged with the primary purpose to take advantage of the benefits in Article 1 of this Protocol.

2. A shell/conduit company that claims it is a resident of a Contracting State shall not be entitled to the benefits of Article 1 of this Protocol. A shell/conduit company is any legal entity falling within the definition of resident with negligible or nil business operations or with no real and continuous business activities carried out in that Contracting State.

3. A resident of a Contracting State is deemed to be a shell/conduit company if its total annual expenditure2 on operations in that Contracting State is less than S$200,000 or Indian Rs. 50,00,000 in the respective Contracting State as the case may be, in the immediately preceding period of 24 months from the date the gains arise.

4. A resident of a Contracting State is deemed not to be a shell/conduit company if—

(a) it is listed on a recognised stock exchange3 of the Contracting State; or

(b) its total annual expenditure on operations in that Contracting State is equal to or more than S$200,000 or Indian Rs. 50,00,000 in the respective Contracting State as the case may be, in the immediately preceding period of 24 months from the date the gains arise.

Explanation.—The cases of legal entities not having bona fide business activities shall be covered by Article 3.1 of this Protocol."

4. Article 5 omitted by Notification No. SO 935(E) [No.18/2017 (500/139/2002-FTD-II], dated 23-3-2017, w.e.f. **1-4-2017**. Prior to its omission, said Article read as under :

"ARTICLE 5 - It is agreed that there shall be an inter-governmental group consisting of representatives of the revenue authorities of the two Contracting States which shall review the working of the provisions of this Protocol at least once a year or earlier at the request of either Contracting State and may make recommendations for improvements including improvements to the provisions of this Protocol."

5. Article 6 omitted by Notification No. SO 935(E) [No.18/2017 (500/139/2002-FTD-II], dated 23-3-2017, w.e.f. **1-4-2017**. Prior to its omission, said Article read as under :

"ARTICLE 6 - Articles 1, 2, 3 and 5 of this Protocol shall remain in force so long as any Convention or Agreement for the Avoidance of Double Taxation between the Government of the Republic of India and the Government of Mauritius provides that any gains from the alienation of shares in any company which is a resident of a Contracting State shall be taxable only in the Contracting State in which the alienator is a resident."

INDIA-SINGAPORE DTAA

(SYNTHESISED TEXT)

The original text of the synthesised text consists of provisions of the MLI agreement as signed between India and Singapore can be referred to below:

SINGAPORE

SYNTHESISED TEXT OF THE MULTILATERAL CONVENTION TO IMPLEMENT TAX TREATY RELATED MEASURES TO PREVENT BASE EROSION AND PROFIT SHIFTING (MLI)

AND

THE AGREEMENT BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF INDIA

AND THE

GOVERNMENT OF THE REPUBLIC OF SINGAPORE

FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE

PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

General disclaimer on the Synthesised text document

This document presents the synthesised text for the application of the Agreement between the Government of the Republic of India and the Government of the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed on 24th January, 1994, as amended by the Protocols signed on 29th June, 2005, 24th June, 2011 and 30th December, 2016 respectively (hereinafter referred to as the "Agreement"), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by India and Singapore on 7th June, 2017 (the "MLI").

The document was prepared on the basis of the MLI position of India submitted to the Depositary (the Secretary-General of the Organisation for Economic Co-operation and Development) upon ratification on 25th June, 2019 and of the MLI position of Singapore submitted to the Depositary upon ratification on 21st December, 2018. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on this Agreement.

The sole purpose of this document is to facilitate the understanding of the application of the MLI to the Agreement and the document does not constitute a source of law. The authentic legal texts of the Agreement and the MLI take precedence and remain the legal texts applicable.

The provisions of the MLI that are applicable with respect to the provisions of the Agreement are included in boxes throughout the text of this document in the context of the relevant provisions of the Agreement. The boxes containing the provisions of the MLI have generally been inserted in accordance with the ordering of the provisions of the OECD Model Tax Convention.

Changes to the text of the provisions of the MLI have been made to conform the terminology used in the MLI to the terminology used in the Agreement (such as changes from "Covered Tax Agreement" to "Agreement" and changes from "Contracting Jurisdiction" to "Contracting State"), to ease the comprehension of the provisions of the MLI. Similarly,

changes have been made to parts of provisions of the MLI that describe existing provisions of the Agreement by replacing such descriptive language with the article and paragraph numbers or language of the existing provisions. These changes are intended to increase the readability of the document and are not intended to change the substance of the provisions of the MLI.

Unless the context otherwise requires, references made to the provisions of the Agreement will be understood as referring to the provisions of the Agreement as modified by the provisions of the MLI.

References

The text of the MLI can be found at the following link:

http://www.oecd.org/tax/treaties/multilateral-convention-to-implement-tax-treaty-related-measures-to-prevent-BEPS.pdf

The text of the Agreement can be found at the following link:

https://www.incometaxindia.gov.in/Pages/international-taxation/dtaa.aspx

For the Republic of Singapore: on the Singapore Statutes Online website (https://sso.agc.gov.sg)

The MLI position of India submitted to the Depositary upon ratification on 25th June, 2019 and of the MLI position of Singapore submitted to the Depositary upon ratification on 21st December, 2018 can be found on the MLI Depositary (OECD) webpage.

Disclaimer on the entry into effect of the provisions of the MLI

Entry into Effect of the MLI Provisions

The provisions of the MLI applicable to this Agreement do not take effect on the same dates as the original provisions of the Agreement. Each of provisions of the MLI could take effect on different dates, depending on the types of taxes involved (taxes withheld at source or other taxes levied) and on the choices made by India and Singapore in their MLI positions.

Dates of the deposit of instruments of ratification: 25th June, 2019 for India and 21st December, 2018 for Singapore.

Entry into force of the MLI: 01st October, 2019 for India and 01st April, 2019 for Singapore.

The provisions of the MLI shall have effect in each Contracting State with respect to the Agreement:

(a) in India:

(i) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 01st April, 2020; and

(ii) with respect to all other taxes levied by India, for taxes levied with respect to taxable periods beginning on or after 01st April, 2020.

(b) in Singapore:

(i) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 01st January, 2020; and

(ii) with respect to all other taxes levied by Singapore, for taxes levied with respect to taxable periods beginning on or after 01st April, 2020.

The Government of the Republic of India and the Government of the Republic of Singapore, desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

The following preamble text described in paragraph 1 of Article 6 of the MLI is included in the preamble of the Agreement:

ARTICLE 6 OF THE MLI Purpose of a Covered Tax Agreement

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

Have agreed as follows:

ARTICLE 1

PERSONAL SCOPE

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

ARTICLE 2

TAXES COVERED

1. The taxes to which this Agreement shall apply are:

(a) in India :

income-tax including any surcharge thereon (hereinafter referred to as "Indian tax") ;

(b) in Singapore :

the income tax (hereinafter referred to as "Singapore tax").

2. The Agreement shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of the present Agreement in addition to, or in place of, the taxes referred to in paragraph 1. The competent authorities of the Contracting States shall notify each other of any substantial changes which are made in their respective taxation laws.

ARTICLE 3

GENERAL DEFINITIONS

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

(a) the term "India" means the territory of India and includes the territorial sea and air space above it, as well as any other maritime zone in which India has sovereign rights, other rights and jurisdictions, according to the Indian law and in accordance with international law;

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

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

(d) the term "company" means any body corporate or any entity which is treated as a company or body corporate under the taxation laws in force in the respective Contracting States ;

(e) the term "competent authority" means in the case of India, the Central Government in the Ministry of Finance (Department of Revenue) or their authorised representative; and in the case of Singapore, the Minister for Finance or his authorised representative ;

(f) 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;

(g) the term "fiscal year" means :

(i) in the case of India, "previous year" as defined under section 3 of the Income-tax Act, 1961 ;

(ii) in the case of Singapore, calendar year ;

(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 "national" means any individual, possessing the nationality of a Contracting State and any legal person, partnership or association deriving its status as such from the laws in force in the Contracting State ;

(j) the term "person" includes an individual, a company, a body of persons and any other entity which is treated as a taxable unit under the taxation laws in force in the respective Contracting States ;

(k) the term "tax" means Indian tax or Singapore tax, as the context requires, but shall not include any amount which is payable in respect of any default or omission in relation to the taxes to which this Agreement applies or which represents a penalty imposed relating to those taxes.

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

ARTICLE 4

RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who is a resident of a Contracting State in accordance with the taxation laws of that State.

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 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 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 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 of the State of which he is a national;

(d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

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 the enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory ;

(e) a workshop ;

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

(g) a warehouse in relation to a person providing storage facilities for others;

(h) a farm, plantation or other place where agriculture, forestry, plantation or related activities are carried on ;

(i) premises used as a sales outlet or for soliciting and receiving orders ;

(j) an installation or structure used for the exploration or exploitation of natural resources but only if so used for a period of more than 120 days in any fiscal year.

3. A building site or construction, installation or assembly project constitutes a permanent establishment only if it continues for a period of more than 183 days in any fiscal year.

4. An enterprise shall be deemed to have a permanent establishment in a Contracting State and to carry on business through that permanent establishment if it carries on supervisory activities in that Contracting State for a period of more than 183 days in any fiscal year in connection with a building site or construction, installation or assembly project which is being undertaken in that Contracting State.

5. Notwithstanding the provisions of paragraphs 3 and 4, and enterprise shall be deemed to have a permanent establishment in a Contracting State and to carry on business through that permanent establishment if it provides services or facilities in that Contracting State for a period of more than 183 days in any fiscal year in connection with the exploration, exploitation or extraction of mineral oils in that Contracting State.

6. An enterprise shall be deemed to have a permanent establishment in a Contracting State if it furnishes services, other than services referred to in paragraphs 4 and 5 of this Article and technical services as defined in Article 12, within a Contracting State through employees or other personnel, but only if:

(a) activities of that nature continue within that Contracting State for a period or periods aggregating more than 90 days in any fiscal year; or

(b) activities are performed for a related enterprise (within the meaning of Article 9 of this Agreement) for a period or periods aggregating more than 30 days in any fiscal year.

7. 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 occasional delivery of goods or merchandise belonging to the enterprise ;

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

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

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or 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 for similar activities which have a preparatory or auxiliary character, for the enterprise.

However, the provisions of sub-paragraphs (a) to (e) shall not be applicable where the enterprise maintains any other fixed place of business in the other Contracting State through which the business of the enterprise is wholly or partly carried on.

8. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 9 applies - is acting in a Contracting State on behalf of an enterprise of the other Contracting State that enterprise shall be deemed to have a permanent establishment in the first-mentioned State, if—

(a) he has and habitually exercises in that State an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise ;

(b) he has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise ; or

(c) he habitually secures orders in the first-mentioned State, wholly or almost wholly for the enterprise itself or for the enterprise and other enterprises controlling, controlled by, or subject to the same common control, as that enterprise.

9. 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 provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise itself or on behalf of that enterprise and other enterprises controlling, controlled by, or subject to the same common control, as that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.

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

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property 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 also 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 it directly or indirectly 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. In any case where the correct amount of profits attributable to a permanent establishment is incapable of determination or the determination thereof presents exceptional difficulties, the profits attributable to the permanent establishment may be estimated on a reasonable basis.

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 business 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, in accordance with the provisions of and subject to the limitations of the taxation laws of that State.

4. Insofar as it has been customary in the 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.

8. For the purpose of paragraph 1, the term "directly or indirectly attributable to the permanent establishment" includes profits arising from transactions in which the permanent establishment has been involved and such profits shall be regarded as attributable to the permanent establishment to the extent appropriate to the part played by the permanent establishment in those transactions, even if those transactions are made or placed directly with the overseas head office of the enterprise rather than with the permanent establishment.

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 engaged in the operation of ships or aircraft.

3. Interest on funds connected with the operation of ships or aircraft in international traffic shall be regarded as profits derived from the operation of such ships or aircraft, and the provisions of Article 11 shall not apply in relation to such interest.

4. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic shall mean profits derived from the transportation by sea or air of passengers, mail, livestock or goods carried on by the owners or lessees or charterers of the ships or aircraft, including profits from:

(a) the sale of tickets for such transportation on behalf of other enterprises;

(b) the incidental lease of ships or aircraft used in such transportation;
(c)the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) in connection with such transportation; and
(d) any other activity directly connected with such transportation.

ARTICLE 9

ASSOCIATED ENTERPRISES

1. Where—
(a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,
and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.
2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

ARTICLE 10

DIVIDENDS

1. Dividends paid by a company which is a resident 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 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 beneficial owner is a company which owns at least 25 per cent of the shares of the company paying the dividends;
(b) 15 per cent of the gross amount of the dividends in all other cases.
This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.
3. Notwithstanding the provisions of paragraph 2 of this Article, as long as Singapore does not impose a tax on dividends in addition to the tax chargeable on the profits or income of a company, dividends paid by a company which is a resident of Singapore to a resident of India shall be exempt from any tax in Singapore which may be chargeable on dividends in addition to the tax chargeable on the profits or income of the company.
4. The term "dividends" as used in this Article means income from shares or other rights not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment

as income from shares by the laws of the State of which the company making the distribution is a resident.

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

6. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other 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 so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

7. (a) Dividends shall be deemed to arise in India if they are paid by a company which is a resident of India;

(b) Dividends shall be deemed to arise in Singapore:

(i) if they are paid by a company which is a resident of Singapore ; or

(ii) if they are paid by a company which is a resident of Malaysia out of profits arising in Singapore and qualifying as dividends arising in Singapore under Article VII of the Agreement for the Avoidance of Double Taxation between Singapore and Malaysia signed on 26th December, 1968.

ARTICLE 11

INTEREST

1. Interest arising in 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:

(a) 10 per cent of the gross amount of the interest if such interest is paid on a loan granted by a bank carrying on a bona fide banking business or by a similar financial institution (including an insurance company) ;

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

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

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, 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.

5. Interest shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a political sub-

division, a local authority, a statutory body 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 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.

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 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 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 AND FEES FOR TECHNICAL SERVICES

1. Royalties and fees for technical services 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 and fees for technical services may also be taxed in the Contracting State in which they arise and according to the laws of that Contracting State, but if the recipient is the beneficial owner of the royalties or fees for technical services, the tax so charged shall not exceed 10 per cent.

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:

(a) any copyright of a literary, artistic or scientific work, including cinematograph film or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience, including gains derived from the alienation of any such right, property or information ;

(b) any industrial, commercial or scientific equipment, other than payments derived by an enterprise from activities described in paragraph 4(b) or 4(c) of Article 8.

4. The term "fees for technical services" as used in this Article means payments of any kind to any person in consideration for services of a managerial, technical or consultancy nature (including the provision of such services through technical or other personnel) if such services:

(a) are ancillary and subsidiary to the application or enjoyment of the right, property or information for which a payment described in paragraph 3 is received ; or

(b) make available technical knowledge, experience, skill, know-how or processes, which enables the person acquiring the services to apply the technology contained therein ; or

(c) consist of the development and transfer of a technical plan or technical design, but excludes any service that does not enable the person acquiring the service to apply the technology contained therein.

For the purposes of (b)and (c) above, the person acquiring the service shall be deemed to include an agent, nominee, or transferee of such person.

5. Notwithstanding paragraph 4, "fees for technical services" does not include payments:

(a) for services that are ancillary and subsidiary, as well as inextricably and essentially linked, to the sale of property other than a sale described in paragraph 3(a);

(b) for services that are ancillary and subsidiary to the rental of ships, aircraft, containers or other equipment used in connection with the operation of ships or aircraft in international traffic ;
(c) for teaching in or by educational institutions ;
(d) for services for the personal use of the individual or individuals making the payment;
(e) to an employee of the person making the payments or to any individual or firm of individuals (other than a company) for professional services as defined in Article 14 ;
(f) for services rendered in connection with an installation or structure used for the exploration or exploitation of natural resources referred to in paragraph 2(j) of Article 5 ;
(g) for services referred to in paragraphs 4 and 5 of Article 5.
6. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties or fees for technical services, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties or fees for technical services 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, property or contract in respect of which the royalties or fees for technical services 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. Royalties and fees for technical services shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, a local authority, a statutory body or a resident of that State. Where, however, the person paying the royalties or fees for technical services, 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 or fees for technical services was incurred, and such royalties or fees for technical services are borne by such permanent establishment or fixed base, then such royalties or fees for technical services shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
8. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of royalties or fees for technical services paid exceeds the amount which would have been paid 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 together with the whole enterprise) or of such fixed base, may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State of which the alienator is a resident.
4A. Gains from the alienation of shares acquired before 1 April 2017 in a company which is a resident of a Contracting State shall be taxable only in the Contracting State in which the alienator is a resident.

4B. Gains from the alienation of shares acquired on or after 1 April 2017 in a company which is a resident of a Contracting State may be taxed in that State.

4C. However, the gains referred to in paragraph 4B of this Article which arise during the period beginning on 1 April 2017 and ending on 31 March 2019 may be taxed in the State of which the company whose shares are being alienated is a resident at a tax rate that shall not exceed 50% of the tax rate applicable on such gains in that State.

5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3, 4A and 4B 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 from the performance of professional services or other independent activities of a similar 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 Contracting 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 Contracting State is for a period or periods amounting to or exceeding in the aggregate 90 days in the relevant fiscal year, 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 independent scientific, literary, artistic, educational or teaching activities, as well as the independent activities of physicians, surgeons, lawyers, engineers, architects, dentists and accountants.

ARTICLE 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21, 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 relevant fiscal year ; 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. In the case of a recipient who satisfies all the conditions under sub-paragraphs (a), (b) and (c) of paragraph 2, if his remuneration is deductible as an expense against fees for technical services (dealt with under Article 12) derived by his employer and the employer has no permanent establishment in the other Contracting State, the remuneration may, notwithstanding the provisions of paragraph 2, be taxed in that State. In such case, the tax so charged shall not exceed 15 per cent of the gross amount of the remuneration.

4. 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 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 SPORTSPERSONS

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

2. Where income in respect of or in connection with personal activities exercised by an artiste or a sportsperson accrues not to the artiste or sportsperson 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 artistes or sportspersons are exercised.

3. Notwithstanding the provisions of paragraph 1, income derived by an artiste or a sportsperson who is a resident of a Contracting State from his personal activities as such exercised in the other Contracting State, shall be taxable only in the first-mentioned State, if the activities in the other State are supported wholly or substantially from the public funds of the first-mentioned State, including any of its political sub-divisions, local authorities or statutory bodies.

4. Notwithstanding the provisions of paragraph 2 and Articles 7, 14 and 15, where income in respect of or in connection with personal activities exercised by an artiste or a sportsperson in a Contracting State accrues not to the artiste or sportsperson himself but to another person, that income shall be taxable only in the other Contracting State, if that other person is supported wholly or substantially from the public funds of that other State, including any of its political sub-divisions, local authorities or statutory bodies.

ARTICLE 18

REMUNERATION AND PENSIONS IN RESPECT OF GOVERNMENT SERVICE

1. (a) Remuneration, other than a pension, paid by a Contracting State or a political sub-division, a local authority or a statutory body thereof to an individual in respect of services rendered to that State or sub-division or authority or body shall be taxable only in that State.

(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other 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) Any pension paid by, or out of funds created by a Contracting State or a political sub-division, a local authority or a statutory body thereof to an individual in respect of services rendered to that State or sub-division or authority or body shall be taxable only in that State.

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

3. The provisions of Articles 15,16 and 19 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political sub-division or a local authority or a statutory body thereof.

ARTICLE 19

NON-GOVERNMENT PENSIONS AND ANNUITIES

1. Any pension, other than a pension referred to in Article 18, or any annuity derived by a resident of a Contracting State from sources within the other Contracting State may be taxed only in the first-mentioned State.

2. The term "pension" means a periodic payment made in consideration of past services or by way of compensation for injuries received in the course of performance of services.

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

ARTICLE 20

STUDENTS AND TRAINEES

1. An individual who is or was a resident of a Contracting State immediately before making a visit to the other Contracting State and is temporarily present in the other State solely :—

(a) as a student at a recognised university, college, school or other similar recognised educational institution in that other State ;

(b) as a business or technical apprentice ; or

(c) as a recipient of a grant, allowance or award for the primary purpose of study, research or training from the Government of either State or from a scientific, educational, religious or charitable organisation or under a technical assistance programme entered into by the Government of either State ;

shall be exempt from tax in that other State on :

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

(ii) the amount of such grant, allowance or award; and

(iii) any remuneration not exceeding United States Dollars five hundred per month or its equivalent in local currency in respect of services in that other State provided the services are performed in connection with his study, research or training or are necessary for the purposes of his maintenance.

2. The benefits of this Article shall extend only for such period of time as may be reasonable or customarily required to complete the education or training undertaken, but in no event shall any individual have the benefits of this Article for more than five consecutive years from the date of his first arrival in that other Contracting State.

ARTICLE 21

TEACHERS AND RESEARCHERS

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

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

ARTICLE 22

INCOME OF GOVERNMENT

1. The Government of a Contracting State shall be exempt from tax in the other Contracting State in respect of income derived by that Government from sources within the other State.

2. The types of income to which paragraph 1 applies are:—

(a) dividends under Article 10 ;

(b) interest under Article 11 ; and

(c) any other income or gains derived from transactions not pursuant to the conduct of commercial activities.

3. For the purposes of paragraph 1, the term "Government":—

(a) in the case of Singapore means the Government of Singapore and shall include :

(i) the Monetary Authority of Singapore and the Board of Commissioners of Currency;

(ii) the Government of Singapore Investment Corporation Pte Ltd to the extent it is not engaged in the conduct of commercial activities ;

(iii) a statutory body not engaged in the conduct of commercial activities ;

(iv) any other institution or body as may be agreed from time to time between the competent authorities of the Contracting States ;

(b) in the case of India means the Government of India and shall include :

(i) the Governments of the States and the Union Territories of India;

(ii) the Reserve Bank of India or any of its subsidiaries which is not engaged in the conduct of commercial activities;

(iii) a statutory body not engaged in the conduct of commercial activities;

(iv) any other institution or body as may be agreed from time to time between the competent authorities of the Contracting States.

ARTICLE 23

INCOME NOT EXPRESSLY MENTIONED

Items of income which are not expressly mentioned in the foregoing Articles of this Agreement may be taxed in accordance with the taxation laws of the respective Contracting States.

ARTICLE 24

LIMITATION OF RELIEF

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

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

ARTICLE 24A

1. A resident of a Contracting State shall not be entitled to the benefits of paragraph 4A or paragraph 4C of Article 13 of this Agreement if its affairs were arranged with the primary purpose to take advantage of the benefits in the said paragraph

4A or paragraph 4C of Article 13 of this Agreement, as the case may be.

2. A shell or conduit company that claims it is a resident of a Contracting State shall not be entitled to the benefits of paragraph 4A or paragraph 4C of Article 13 of this Agreement. A shell or conduit company is any legal entity falling within the definition of resident with negligible or nil business operations or with no real and continuous business activities carried out in that Contracting State.

3. A resident of a Contracting State is deemed to be a shell or conduit company if its annual expenditure on operations in that Contracting State is less than S$ 200,000 in Singapore or Indian Rs. 5,000,000 in India, as the case may be:

(a) in the case of paragraph 4A of Article 13 of this Agreement, for each of the 12 month periods in the immediately preceding period of 24 months from the date on which the gains arise;

(b) in the case of paragraph 4C of Article 13 of this Agreement, for the immediately preceding period of 12 months from the date on which the gains arise.

4. A resident of a Contracting State is deemed not to be a shell or conduit company if:

(a) it is listed on a recognised stock exchange of the Contracting State; or

(b) its annual expenditure on operations in that Contracting State is equal to or more than S$ 200,000 in Singapore or Indian Rs. 5,000,000 in India, as the case may be:

(i) in the case of paragraph 4A of Article 13 of this Agreement, for each of the 12-month periods in the immediately preceding period of 24 months from the date on which the gains arise;

(ii) in the case of paragraph 4C of Article 13 of this Agreement, for the immediately preceding period of 12 months from the date on which the gains arise.

5. For the purpose of paragraph 4(a) of this Article, a recognised stock exchange means:

(a) in the case of Singapore, the securities market operated by the Singapore Exchange Limited, Singapore Exchange Securities Trading Limited and The Central Depository (Pte) Limited; and

(b) in the case of India, a stock exchange recognised by the Securities and Exchange Board of India.

Explanation: The cases of legal entities not having bona fide business activities shall be covered by paragraph 1 of this Article.

ARTICLE 25

AVOIDANCE OF DOUBLE TAXATION

1. The laws in force in either of the Contracting States shall continue to govern the taxation of income in the respective Contracting States except where express provision to the contrary is made in this Agreement.

2. Where a resident of India derives income which, in accordance with the provisions of this Agreement, may be taxed in Singapore, India shall allow as a deduction from the tax on the income of that resident an amount equal to the Singapore tax paid, whether directly or by deduction. Where the income is a dividend paid by a company which is a resident of Singapore to a company which is a resident of India and which owns directly or indirectly not less than 25 per cent of the share capital of the company paying the dividend, the deduction shall take into account the Singapore tax paid in respect of the profits out of which the dividend is paid. Such deduction in either case shall not, however, exceed that part of the tax (as computed before the deduction is given) which is attributable to the income which may be taxed in Singapore.

3. For the purposes of paragraph 2 of this Article, "Singapore tax paid" shall be deemed to include any amount of tax which would have been payable but for the reduction or exemption of Singapore tax granted under:

(a) the provisions of the Economic Expansion Incentives (Relief from Income Tax) Act and the provisions of sections 13(1)(t), 13(1)(u), 13(1)(v), 13(2), 13A, 13B, 13F, 14B, 14C, 14E, 43A, 43C, 43D, 43E, 43F, 43G, 43H, 43I, 43J and 43K of the Income Tax

Act, insofar as they were in force and have not been modified since the date of signature of this Agreement, or have been modified in minor respects so as not to affect their general character;

(b) any other provision which may subsequently be enacted granting an exemption or reduction of tax which is agreed by the competent authorities of the Contracting States to be of a substantially similar character to any provision referred to in sub-paragraph (a) of this paragraph, if such provision has not been modified thereafter or has been modified only in minor respects so as not to affect its general character.

4. Subject to the provisions of the laws of Singapore regarding the allowance as a credit against Singapore tax of tax paid in any country other than Singapore, Indian tax paid, whether directly or by deduction, in respect of income from sources within India shall be allowed as a credit against Singapore tax payable in respect of that income. Where such income is a dividend paid by a company which is a resident of India to a resident of Singapore which owns not less than 25 per cent of the share capital of the company paying the dividends, the credit shall take into account Indian tax paid in respect of its profits by the company paying the dividends.

5. For the purposes of paragraph 4 of this Article the term "Indian tax paid" shall be deemed to include any amount of tax which would have been payable in India but for a deduction allowed in computing the taxable income or an exemption or reduction of tax granted for that year in question under:

(a) Sections 10(4), 10(4B), 10(5B), 10(15)(iv), 10A, 10B, 33AB, 80-I and 80-IA, insofar as these provisions were in force and have not been modified since the date of signature of this Agreement, or have been modified only in minor respects so as not to affect their general character,

(b) any other provision which may subsequently be enacted granting an exemption or reduction of tax which is agreed by the competent authorities of the Contracting States to be of a substantially similar character to a provision referred to in sub-paragraph (a) of this paragraph, if such provision has not been modified thereafter or has been modified only in minor respects so as not to affect its general character.

6. Income which, in accordance with the provisions of this Agreement, is not to be subjected to tax in a Contracting State, may be taken into account for calculating the rate of tax to be imposed in that Contracting State.

ARTICLE 26

NON-DISCRIMINATION

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

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities in the same circumstances or under the same conditions. This provision shall not be construed as preventing a Contracting State from charging the profits of a permanent establishment which an enterprise of the other Contracting State has in the first-mentioned State at a rate of tax which is higher than that imposed on the profits of a similar enterprise of the first-mentioned Contracting State, nor as being in conflict with the provisions of paragraph 3 of Article 7 of this Agreement.

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

under the same conditions.

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

(a) obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs, reductions and deductions which it grants to its own residents;

(b) affecting any provisions of the tax laws of the respective Contracting States regarding the imposition of tax on non-resident persons as such;

(c) obliging a Contracting State to grant to nationals of the other Contracting State those personal allowances, reliefs, reductions and deductions for tax purposes which it grants to its own citizens who are not resident in that State or to such other persons as may be specified in the taxation laws of that State; and

(d) affecting any provisions of the tax laws of the respective Contracting States regarding any tax concessions granted to persons fulfilling specified conditions.

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

ARTICLE 27

MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Agreement, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident. This case must be presented within three years of the date of receipt of notice of the action which gives rise to taxation not in accordance with 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 an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to avoidance of taxation not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the national laws of the Contracting States.

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

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

ARTICLE 28

EXCHANGE OF INFORMATION

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

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities

(including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

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

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

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

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

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

ARTICLE 28A

MISCELLANEOUS

This Agreement shall not prevent a Contracting State from applying its domestic law and measures concerning the prevention of tax avoidance or tax evasion.

ARTICLE 29

DIPLOMATIC AND CONSULAR OFFICIALS

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

The following paragraph 1 of Article 7 of the MLI applies to the provisions of this Agreement:

ARTICLE 7 OF THE MLI - PREVENTION OF TREATY ABUSE (Principal purposes test provision)

Notwithstanding any provisions of the Agreement, a benefit under the Agreement shall not be granted in respect of an item of income if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of the Agreement.

ARTICLE 30

ENTRY INTO FORCE

1. Each of the Contracting States shall notify the other the completion of the procedures requires by its law for the

bringing into force of this Agreement. This Agreement shall enter into force on the date of the later of these notifications and shall thereupon have effect:

(a) in India, in respect of income arising in any fiscal year beginning on or after the first day of April, 1994;

(b) in Singapore, in respect of income arising in any fiscal year beginning on or after the first day of January, 1994.

2. The Agreement between the Government of the Republic of India and the Government of the Republic of Singapore for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed in Singapore on 20th April, 1981 shall terminate and cease to be effective from the date on which this Agreement comes into effect.

ARTICLE 31

TERMINATION

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

(a) in India, in respect of income arising in any fiscal year beginning on or after the 1st day of April next following the date on which the notice of termination is given;

(b) in Singapore, in respect of income arising in any fiscal year beginning on or after the 1st day of January next following the date on which the notice of termination is given.

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

DONE in duplicate at India this twenty-fourth day of January, one thousand nine hundred and ninety-four in the Hindi and English languages, both texts being equally authentic. In the case of divergence between the two texts, the English text shall be the operative one.

■■

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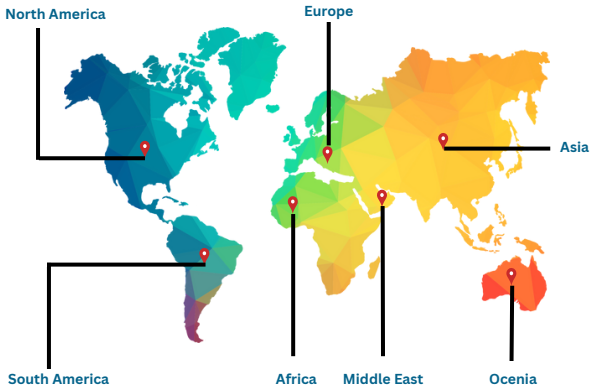

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