

**SYNTHESISED TEXT OF THE MLI AND THE
AGREEMENT BETWEEN THE GOVERNMENT OF THE
REPUBLIC OF AUSTRIA 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 Austria 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 30 November 2001, amended by the Protocol signed on 15 September 2009 and the diplomatic notes exchanged between the Republic of Austria and the Republic of Singapore on 15 September 2009 as amended by the exchange of diplomatic notes dating 3 September and 16 October 2012 (the “Agreement”) as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by the Republic of Austria and by the Republic of Singapore on 7 June 2017 (the “MLI”).

The document was prepared on the basis of the MLI position of the Republic of Austria submitted to the Depository upon ratification on 22 September 2017 and of the MLI position of the Republic of Singapore submitted to the Depository upon ratification on 21 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 the Agreement.

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 “Covered Tax Agreement” and “Agreement”, “Contracting Jurisdictions” and “Contracting States”), to ease the comprehension of the provisions of the MLI. The changes in terminology are intended to increase the readability of the document and are not intended to change the substance 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: descriptive language has been replaced by legal references of the existing provisions to ease the readability.

In all cases, references made to the provisions of the Agreement or to the Agreement must be understood as referring to the Agreement as modified by the provisions of the MLI, provided such provisions of the MLI have taken effect.

References

The authentic legal texts of the MLI and the Agreement can be found on the webpage of the Federal Ministry of Finance (<https://www.bmf.gv.at/>).

The MLI position of the Republic of Austria submitted to the Depository upon ratification on 22 September 2017 and the MLI position of the Republic of Singapore submitted to the Depository upon ratification on 21 December 2018 can be found on the MLI Depository (OECD) webpage (<http://www.oecd.org/tax/treaties/beps-ml-signatories-and-parties.pdf>).

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 the Agreement do not take effect on the same dates as the original provisions of the Agreement. Each of the 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 the Republic of Austria and the Republic of Singapore in their MLI positions.

Dates of the deposit of instruments of ratification: 22 September 2017 for the Republic of Austria and 21 December 2018 for the Republic of Singapore.

Entry into force of the MLI: 1 July 2018 for the Republic of Austria and 1 April 2019 for the Republic of Singapore.

This document provides specific information on the dates on or after which each of the provisions of the MLI has effect with respect to the Agreement throughout this document.

**AGREEMENT BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF AUSTRIA 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 Austria and the Government of the Republic of Singapore,

[REPLACED by paragraph 1 of Article 6 of the MLI] [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 paragraph 1 of Article 6 of the MLI replaces the text referring to an intent to eliminate double taxation in the preamble of this Agreement:*¹

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 this Agreement for the indirect benefit of residents of third jurisdictions),

Have agreed as follows

**Article 1
Persons covered**

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

**Article 2
Taxes covered**

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

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

¹ In accordance with paragraphs 1 and 3 of Article 35 of the MLI, paragraph 1 of Article 6 of the MLI has effect in the Republic of Austria with respect to this Agreement:

- a) 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 1 January 2020; and
- b) with respect to all other taxes levied by the Republic of Austria, for taxes levied with respect to taxable periods beginning on or after 1 January 2020;

and,

in accordance with paragraph 1 of Article 35 of the MLI, paragraph 1 of Article 6 of the MLI has effect in the Republic of Singapore with respect to this Agreement:

- a) 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 1 January 2020; and
- b) with respect to all other taxes levied by the Republic of Singapore, for taxes levied with respect to taxable periods beginning on or after 1 October 2019.

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

(a) in Austria:

- (i) the income tax (die Einkommensteuer);
- (ii) the corporation tax (die Körperschaftsteuer);

(b) in Singapore:

the income tax.

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

Article 3 **General definitions**

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

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

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

Article 4 **Resident**

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

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

- (a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);
- (b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
- (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
- (d) 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 only of the State in which its place of effective management is situated.

Article 5

Permanent establishment

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

2. The term "permanent establishment" includes especially:

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

3. The term "permanent establishment" also includes:

- (a) a building site, a construction, installation or assembly project, but only where such site or project continues for a period of more than 12 months;
- (b) the furnishing of services, including supervisory activities and consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose for a period or periods exceeding in the aggregate 183 days within any twelve-month period.

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

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

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person -- other than an agent of an independent status to whom paragraph 6 applies -- is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised

through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

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

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

Article 6 **Income from immovable property**

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

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

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

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

Article 7 **Business profits**

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

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

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

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

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

Article 8 **Shipping, inland waterways transport and air transport**

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

2. Profits of an enterprise of a Contracting State from the operation of boats engaged in inland waterways transport shall be taxable only in that State.

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

- (a) profits from the rental on a bareboat basis of ships and aircraft; and
- (b) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers), used for the transport of goods or merchandise;

where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

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

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. **[REPLACED by paragraph 1 of Article 17 of the MLI]** [Where a Contracting State includes, in accordance with the provisions of paragraph 1, in the profits of an enterprise of that State -- and taxes accordingly -- profits on which an enterprise of the other Contracting State has been charged to tax in that other State and where the competent authorities of the Contracting States agree, upon consultation, that all or part of the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those agreed profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement.]

The following paragraph 1 of Article 17 of the MLI replaces paragraph 2 of Article 9 of this Agreement²

² In accordance with paragraphs 1 and 3 of Article 35 of the MLI, paragraph 1 of Article 17 of the MLI has effect in the Republic of Austria with respect to this Agreement:

- a) 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 1 January 2020; and
- b) with respect to all other taxes levied by the Republic of Austria, for taxes levied with respect to taxable periods beginning on or after 1 January 2020;

and,

in accordance with paragraph 1 of Article 35 of the MLI, paragraph 1 of Article 17 of the MLI has effect in the Republic of Singapore with respect to this Agreement:

- a) 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 1 January 2020; and
- b) with respect to all other taxes levied by the Republic of Singapore, for taxes levied with respect to taxable periods beginning on or after 1 October 2019.

ARTICLE 17 OF THE MLI – CORRESPONDING ADJUSTMENTS

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

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.(a) However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

(b) If the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends, such dividends shall be taxable only in the Contracting State of which the beneficial owner of the dividends is a resident.

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, dividends paid by a company which is a resident of a Contracting State to the Government of the other Contracting State shall be exempt from tax in the first-mentioned State.

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

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

- (i) the Central Bank;
- (ii) a statutory body;
- (iii) any institution wholly or mainly owned by the Government of Austria as may be agreed from time to time between the competent authorities of the Contracting States;

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

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

6. The provisions of paragraphs 1 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.

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

8. Under the current Singapore laws, where dividends are paid by a company which is a resident of Singapore to a resident of Austria who is the beneficial owner of such dividends, there is no tax in Singapore which is chargeable on dividends in addition to the tax chargeable in respect of the profits or income of the company. Under the full imputation system adopted, the tax deductible from dividends is a tax on the profits or income of the company and not a tax on dividends within the meaning of this Article.

Article 11 **Interest**

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

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

3. Notwithstanding the provisions of paragraph 2,

- (a) interest arising in a Contracting State and paid to the Government of the other Contracting State shall be exempt from tax in the first-mentioned State;
- (b) interest paid in respect of a loan or credit made, guaranteed or insured by the Oesterreichische Kontrollbank AG or a similar Singapore public entity the objective of which is to promote export shall be exempt from tax in the Contracting State in which the interest arises;
- (c) interest derived and beneficially owned by a bank of a Contracting State shall be exempt from tax in the other Contracting State if the payer is a bank of the other State.

4. For the purposes of sub-paragraph (a) of paragraph 3, the term "Government":

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

- (i) the Central Bank;
- (ii) a statutory body;
- (iii) any institution wholly or mainly owned by the Government of Austria as may be agreed from time to time between the competent authorities of the Contracting States;

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

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

6.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.

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

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

Article 12 **Royalties**

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

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

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

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

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

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

Article 13 **Capital gains**

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

2. Gains derived by a resident of a Contracting State from the alienation of shares, other than shares quoted on a recognised Stock Exchange, deriving at least three-quarters of their value directly or indirectly from immovable property situated in the other Contracting State, may be taxed in that other State.

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

4. Gains derived by an enterprise of a Contracting State from the operation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property, including containers, pertaining to the operation of such ships, aircraft or boats, shall be taxable only in that State.

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

Article 14 **Independent personal services**

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

- (a) the individual is present in the other State for a period or periods exceeding in the aggregate 183 days in any period of twelve months commencing or ending in the calendar year concerned; or
- (b) the individual has a fixed base regularly available to him in that other State for the purpose of performing his activities;

but only so much thereof as is attributable to services performed in that other State.

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

Article 15 **Dependent personal services**

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

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

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

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

Article 16
Directors' fees

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

Article 17
Artistes and sportsmen

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

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

Article 18
Pensions

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

Article 19
Government service

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

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

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

2.(a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision, a local authority or a statutory body thereof to an individual in respect of services rendered to that State or subdivision, authority or body shall be taxable only in that State.

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

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

Article 20
Students

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

Article 21
Other income

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

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

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

Article 22 **Elimination of double taxation**

1.In Austria double taxation shall be avoided as follows:

(a) Where a resident of Austria derives income which, in accordance with the provisions of this Agreement, may be taxed in Singapore, Austria shall, subject to the provisions of sub-paragraphs (b) to (d), exempt such income from tax.

(b) Where a resident of Austria derives items of income which, in accordance with the provisions of Articles 10, 11, 12, paragraph 2 of Article 13, and 21 may be taxed in Singapore, Austria shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Singapore. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from Singapore.

(c) Dividends in the sense of sub-paragraph (b) of paragraph 2 of Article 10 paid by a company which is a resident of Singapore to a company which is a resident of Austria shall be exempt from tax in Austria, subject to the relevant provisions of the domestic law of Austria, however, notwithstanding any deviating minimum participation requirements provided for by that law.

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

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

Where a resident of Singapore derives income from Austria which, in accordance with the provisions of this Agreement, may be taxed in Austria, Singapore shall, subject to its laws regarding the allowance as a credit against Singapore tax of tax payable in any country other than Singapore, allow the Austrian tax paid, whether directly or by deduction, as a credit against the Singapore tax payable on the income of the resident. Where such income is a dividend paid by a company which is a resident of Austria to a resident of Singapore which is a company owning directly or indirectly not less than 10 per cent of the share capital of the first-mentioned company, the credit shall take into account the Austrian tax paid by that company on the portion of its profits out of which the dividend is paid.

Article 23 **Non-discrimination**

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

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

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

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

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

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

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

Article 24 **Mutual agreement procedure**

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

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

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

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

*The following part VI of the MLI applies to this Agreement:*³

PART VI OF THE MLI (ARBITRATION)

Paragraphs 1 to 10 and 12 of Article 19 (Mandatory Binding Arbitration) of the MLI

1. Where:

a) under paragraph 1 of Article 24 of this Agreement, a person has presented a case to the competent authority of a Contracting State on the basis that the actions of one or both of the Contracting States have resulted for that person in taxation not in accordance with the provisions of this Agreement; and

b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 of Article 24 of the Agreement, within a period of three-years beginning on the start date referred to in paragraph 8 or 9 of Article 19 of the MLI, as the case may be (unless, prior to the expiration of that period the competent authorities of the Contracting States have agreed to a different time period with respect to that case and have notified the person who presented the case of such agreement),

any unresolved issues arising from the case shall, if the person so requests in writing, be submitted to arbitration in the manner described in this Part, according to any rules or procedures agreed upon by the competent authorities of the Contracting States pursuant to the provisions of paragraph 10 of Article 19 of the

³ In accordance with paragraph 1 of Article 36 of the MLI, the provisions of Part VI (Arbitration) of the MLI have effect with respect to this Agreement with respect to cases presented to the competent authority of a Contracting State on or after 1 April 2019.

In accordance with paragraph 2 of Article 36 of the MLI, Part VI (Arbitration) of the MLI apply to a case presented to the competent authority of a Contracting State prior to 1 April 2019 only to the extent that the competent authorities of both Contracting States agree that it will apply to that specific case.

MLI.

2. Where a competent authority has suspended the mutual agreement procedure referred to in paragraph 1 of Article 19 of the MLI because a case with respect to one or more of the same issues is pending before court or administrative tribunal, the period provided in subparagraph b) of paragraph 1 of Article 19 of the MLI will stop running until either a final decision has been rendered by the court or administrative tribunal or the case has been suspended or withdrawn. In addition, where a person who presented a case and a competent authority have agreed to suspend the mutual agreement procedure, the period provided in subparagraph b) of paragraph 1 of Article 19 of the MLI will stop running until the suspension has been lifted.

3. Where both competent authorities agree that a person directly affected by the case has failed to provide in a timely manner any additional material information requested by either competent authority after the start of the period provided in subparagraph b) of paragraph 1 of Article 19 of the MLI, the period provided in subparagraph b) of paragraph 1 of Article 19 of the MLI shall be extended for an amount of time equal to the period beginning on the date by which the information was requested and ending on the date on which that information was provided.

4. a) The arbitration decision with respect to the issues submitted to arbitration shall be implemented through the mutual agreement concerning the case referred to in paragraph 1 of Article 19 of the MLI. The arbitration decision shall be final.

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

i) if a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision. In such a case, the case shall not be eligible for any further consideration by the competent authorities. The mutual agreement that implements the arbitration decision on the case shall be considered not to be accepted by a person directly affected by the case if any person directly affected by the case does not, within 60 days after the date on which notification of the mutual agreement is sent to the person, withdraw all issues resolved in the mutual agreement implementing the arbitration decision from consideration by any court or administrative tribunal or otherwise terminate any pending court or administrative proceedings with respect to such issues in a manner consistent with that mutual agreement.

ii) if a final decision of the courts of one of the Contracting States holds that the arbitration decision is invalid. In such a case, the request for arbitration under paragraph 1 of Article 19 of the MLI shall be considered not to have been made, and the arbitration process shall be considered not to have taken place (except for the purposes of Articles 21 (Confidentiality of Arbitration Proceedings) and 25 (Costs of Arbitration Proceedings) of the MLI). In such a case, a new request for arbitration may be made unless the competent authorities agree that such a new request should not be permitted.

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

5. The competent authority that received the initial request for a mutual agreement procedure as described in subparagraph a) of paragraph 1 of Article 19 of the MLI shall, within two calendar months of receiving the request:

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

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

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

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

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

7. Where pursuant to subparagraph b) of paragraph 6 of Article 19 of the MLI, one or both of the competent authorities have requested from the person who presented the case additional information necessary to undertake substantive consideration of the case, the competent authority that requested the additional information shall, within three calendar months of receiving the additional information from that person,

notify that person and the other competent authority either:

- a) that it has received the requested information; or
- b) that some of the requested information is still missing.

8. Where neither competent authority has requested additional information pursuant to subparagraph b) of paragraph 6 of Article 19 of the MLI, the start date referred to in paragraph 1 of Article 19 of the MLI shall be the earlier of:

- a) the date on which both competent authorities have notified the person who presented the case pursuant to subparagraph a) of paragraph 6 of Article 19 of the MLI; and
- b) the date that is three calendar months after the notification to the competent authority of the other Contracting State pursuant to subparagraph b) of paragraph 5 of Article 19 of the MLI.

9. Where additional information has been requested pursuant to subparagraph b) of paragraph 6 of Article 19 of the MLI, the start date referred to in paragraph 1 of Article 19 of the MLI shall be the earlier of:

- a) the latest date on which the competent authorities that requested additional information have notified the person who presented the case and the other competent authority pursuant to subparagraph a) of paragraph 7 of Article 19 of the MLI; and
- b) the date that is three calendar months after both competent authorities have received all information requested by either competent authority from the person who presented the case.

If, however, one or both of the competent authorities send the notification referred to in subparagraph b) of paragraph 7 of Article 19 of the MLI, such notification shall be treated as a request for additional information under subparagraph b) of paragraph 6 of Article 19 of the MLI.

10. The competent authorities of the Contracting States shall by mutual agreement pursuant to Article 24 of this Agreement settle the mode of application of the provisions contained in this Part, including the minimum information necessary for each competent authority to undertake substantive consideration of the case. Such an agreement shall be concluded before the date on which unresolved issues in a case are first eligible to be submitted to arbitration and may be modified from time to time thereafter.

12. Notwithstanding the other provisions of this Article of the MLI:

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

Article 20 (Appointment of Arbitrators) of the MLI

1. Except to the extent that the competent authorities of the Contracting States mutually agree on different rules, paragraphs 2 through 4 of Article 20 of the MLI shall apply for the purposes of this Part.

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

- a) The arbitration panel shall consist of three individual members with expertise or experience in international tax matters.
- b) Each competent authority shall appoint one panel member within 60 days of the date of the request for arbitration under paragraph 1 of Article 19 of the MLI. The two panel members so appointed shall, within 60 days of the latter of their appointments, appoint a third member who shall serve as Chair of the arbitration panel. The Chair shall not be a national or resident of either Contracting State.
- c) Each member appointed to the arbitration panel must be impartial and independent of the competent authorities, tax administrations, and ministries of finance of the Contracting States and of all persons directly affected by the case (as well as their advisors) at the time of accepting an appointment, maintain his or her impartiality and independence throughout the proceedings, and avoid any conduct for a reasonable period of time thereafter which may damage the appearance of impartiality and independence of the arbitrators with respect to the proceedings.

3. In the event that the competent authority of a Contracting State fails to appoint a member of the arbitration panel in the manner and within the time periods specified in paragraph 2 of Article 20 of the MLI or agreed to by the competent authorities of the Contracting States, a member shall be appointed on behalf of that competent authority by the highest ranking official of the Centre for Tax Policy and Administration of the Organisation for Economic Co-operation and Development that is not a national of either Contracting State.

4. If the two initial members of the arbitration panel fail to appoint the Chair in the manner and within the time periods specified in paragraph 2 of Article 20 of the MLI or agreed to by the competent authorities of the Contracting States, the Chair shall be appointed by the highest ranking official of the Centre for Tax Policy and Administration of the Organisation for Economic Co-operation and Development that is not a national of either Contracting State.

Article 21 (Confidentiality of Arbitration Proceedings) of the MLI

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

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

Article 22 (Resolution of a Case Prior to the Conclusion of the Arbitration) of the MLI

For the purposes of this Part and the provisions of this Agreement that provide for resolution of cases through mutual agreement, the mutual agreement procedure, as well as the arbitration proceeding, with respect to a case shall terminate if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the Contracting States:

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

*Paragraphs 1 and 5 of Article 23 (Type of Arbitration Process) of the MLI
(Alternative 1 – Final offer arbitration)*

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

a) After a case is submitted to arbitration, the competent authority of each Contracting State shall submit to the arbitration panel, by a date set by agreement, a proposed resolution which addresses all unresolved issue(s) in the case (taking into account all agreements previously reached in that case between the competent authorities of the Contracting States). The proposed resolution shall be limited to a disposition of specific monetary amounts (for example, of income or expense) or, where specified, the maximum rate of tax charged pursuant to this Agreement, for each adjustment or similar issue in the case. In a case in which the competent authorities of the Contracting States have been unable to reach agreement on an issue regarding the conditions for application of a provision of this Agreement (hereinafter referred to as a “threshold question”), such as whether an individual is a resident or whether a permanent establishment exists, the competent authorities may submit alternative proposed resolutions with respect to issues the determination of which is contingent on resolution of such threshold questions.

b) The competent authority of each Contracting State may also submit a supporting position paper for consideration by the arbitration panel. Each competent authority that submits a proposed resolution or

supporting position paper shall provide a copy to the other competent authority by the date on which the proposed resolution and supporting position paper were due. Each competent authority may also submit to the arbitration panel, by a date set by agreement, a reply submission with respect to the proposed resolution and supporting position paper submitted by the other competent authority. A copy of any reply submission shall be provided to the other competent authority by the date on which the reply submission was due.

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

5. Prior to the beginning of arbitration proceedings, the competent authorities of the Contracting States shall ensure that each person that presented the case and their advisors agree in writing not to disclose to any other person any information received during the course of the arbitration proceedings from either competent authority or the arbitration panel. The mutual agreement procedure under this Agreement, as well as the arbitration proceeding under this Part, with respect to the case shall terminate if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the Contracting States, a person that presented the case or one of that person's advisors materially breaches that agreement.

Paragraph 2 of Article 24 (Agreement on a Different Resolution) of the MLI

2. Notwithstanding paragraph 4 of Article 19 of the MLI, an arbitration decision pursuant to this Part shall not be binding on the Contracting States and shall not be implemented if the competent authorities of the Contracting States agree on a different resolution of all unresolved issues within three calendar months after the arbitration decision has been delivered to them.

Article 25 (Costs of Arbitration Proceedings) of the MLI

In an arbitration proceeding under this Part, the fees and expenses of the members of the arbitration panel, as well as any costs incurred in connection with the arbitration proceedings by the Contracting States, shall be borne by the Contracting States in a manner to be settled by mutual agreement between the competent authorities of the Contracting States. In the absence of such agreement, each Contracting State shall bear its own expenses and those of its appointed panel member. The cost of the chair of the arbitration panel and other expenses associated with the conduct of the arbitration proceedings shall be borne by the Contracting States in equal shares.

Paragraphs 2 and 3 of Article 26 (Compatibility) of the MLI

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

3. Nothing in this Part shall affect the fulfilment of wider obligations with respect to the arbitration of unresolved issues arising in the context of a mutual agreement procedure resulting from other conventions to which the Contracting States are or will become parties.

Subparagraph a) of paragraph 2 of Article 28 (Reservations) of the MLI

Pursuant to subparagraph a) of paragraph 2 of Article 28 of the MLI, the Republic of Austria formulates the following reservation with respect to the scope of cases that shall be eligible for arbitration under the provisions of Part VI:

The Republic of Austria reserves the right to exclude from the scope of Part VI cases involving the application of its domestic general anti-avoidance rules contained in the Federal Fiscal Code ("Bundesabgabenordnung"), in particular its sections 21 and 22. Any subsequent provisions replacing, amending or updating these anti-avoidance rules would also be comprehended. The Republic of Austria shall notify the Depositary of any such subsequent provisions.

Pursuant to subparagraph a) of paragraph 2 of Article 28 of the MLI, the Republic of Singapore formulates the following reservation with respect to the scope of cases that shall be eligible for arbitration under the

provisions of Part VI:

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

b) Where a reservation made by the other Contracting State to a Covered Tax Agreement pursuant to subparagraph a) of paragraph 2 of Article 28 refers exclusively to its domestic law (including legislative provisions, case law, judicial doctrines and penalties), the Republic of Singapore reserves the right to exclude from the scope of Part VI those cases that would be excluded from the scope of Part VI if the other Contracting State's reservation were formulated with reference to any analogous provisions of the Republic of Singapore's domestic law or any subsequent provisions which replace, amend or update those provisions. The competent authority of the Republic of Singapore will consult with the competent authority of the other Contracting State in order to specify any such analogous provisions which exist in the Republic of Singapore's domestic law in the agreement concluded pursuant to paragraph 10 of Article 19.

Article 25 **Exchange of information**

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

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

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

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

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

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

Article 26 **Members of diplomatic missions and consular posts**

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

*The following paragraph 1 of Article 7 of the MLI applies and supersedes the provisions of this Agreement:*⁴

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

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

Article 27
Entry into force

1. 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 Agreement.

2. The Agreement shall enter into force on the date of receipt of the later of these notifications and shall thereupon have effect in respect of taxes on income relating to the calendar year (including accounting periods beginning in any such year) next following that in which the Agreement enters into force and subsequent years.

Article 28
Termination

This Agreement shall remain in force indefinitely, but either of the Contracting States may, on or before 30th June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through the diplomatic channels, written notice of termination. In such event, the Agreement shall cease to have effect in respect of taxes on income relating to the calendar year (including accounting periods beginning in any such year) next following that in which the notice is given and subsequent years.

IN WITNESS WHEREOF the Plenipotentiaries of the two Contracting States, duly authorised thereto, have signed this Agreement.

DONE in duplicate in Vienna, on the 30th day of November 2001, in the German and English languages, each text being equally authentic.

For the Government of the Republic of Austria:
Dr. Johann Demel

For the Government of the Republic of Singapore:
Chen Choong Joong

⁴ In accordance with paragraphs 1 and 3 of Article 35 of the MLI, paragraph 1 of Article 7 of the MLI has effect in the Republic of Austria with respect to this Agreement:

- a) 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 1 January 2020; and
- b) with respect to all other taxes levied by the Republic of Austria, for taxes levied with respect to taxable periods beginning on or after 1 January 2020;

and,

in accordance with paragraph 1 of Article 35 of the MLI, paragraph 1 of Article 7 of the MLI has effect in the Republic of Singapore with respect to this Agreement:

- a) 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 1 January 2020; and
- b) with respect to all other taxes levied by the Republic of Singapore, for taxes levied with respect to taxable periods beginning on or after 1 October 2019.

Protocol

At the moment of signing the Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, this day concluded between the Government of the Republic of Austria and the Government of the Republic of Singapore, the undersigned have agreed that the following provisions shall form an integral part of the Agreement.

With reference to Article 13:

1. For the purposes of paragraph 2 of Article 13:

(a) the shares of a company are considered as deriving at least three-quarters of their value directly or indirectly from immovable property situated in a Contracting State if the company has immovable property situated in that State or shares in one or more relevant investment companies, the aggregate value of which comprises at least three-quarters of the market value of its total assets as at the end of the accounting period of the company immediately before the alienation of the shares in the company by the person referred to in paragraph 2 of Article 13; and

(b) for the purposes of sub-paragraph (a) above, a relevant investment company means a company whose shares are not quoted on a recognised Stock Exchange and which has immovable property situated in the Contracting State referred to in sub-paragraph (a) above, the value of which comprises at least three-quarters of the market value of its total assets as at the end of the accounting period of the company immediately before the disposal of the shares in the company referred to in sub-paragraph (a) above by the person referred to in paragraph 2 of Article 13.

With reference to Article 22:

2. Where a resident of Austria derives income from an enterprise of Singapore as a "typical silent partner" (echter stiller Gesellschafter) under Austrian law, the tax paid thereon to Singapore shall be deducted from the Austrian tax according to the provisions of sub-paragraph (b) of paragraph 1 of Article 22.

3. The phrase "subject to the relevant provisions of the domestic law of Austria" in sub-paragraph (c) of paragraph 1 of Article 22 refers to anti-abuse provisions in the Austrian tax law.

With reference to Article 23:

4. Granting by Singapore of the following tax reliefs or incentives shall not be construed as discrimination under Article 23:

(a) tax reliefs for non-resident nationals of Singapore under Section 40 of the Income Tax Act;

(b) tax incentives granted to its nationals to promote social development in accordance with its national policy and criteria;

(c) tax incentive under Part XIII B of the Economic Expansion Incentives (Relief from Income Tax) Act for the promotion of overseas investments or projects carried out by enterprises mainly owned by nationals and permanent residents of Singapore.

IN WITNESS WHEREOF the Plenipotentiaries of the two Contracting States, duly authorised thereto, have signed this Protocol.

DONE in duplicate in Vienna, on the 30th day of November 2001, in the German and English languages, each text being equally authentic.

For the Government of the Republic of Austria:
Dr. Johann Demel

For the Government of the Republic of Singapore:
Chen Choong Joong

Exchange of Notes

(answering note)

Singapore, 15 September 2009
H.E. Dr Klaus Wölfer

Ambassador of the Republic of Austria
to the Republic of Singapore
Republic of Austria

Excellency,

I have the honour to acknowledge receipt of Your Excellency's Note of the 15th of September 2009, which reads as follows:

"I have the honor to refer to the Agreement between the Government of the Republic of Austria 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 Vienna on 30 November 2001, and the Protocol signed today (hereinafter referred to as "the Agreement") and to propose on behalf of the Government of the Republic of Austria the following understanding:

Ad Article 25:

1. The competent authority of the applicant State shall provide the following information to the competent authority of the requested State when making a request for information under the Agreement to demonstrate the foreseeable relevance of the information to the request:

- (a) the identity of the person under examination or investigation;
- (b) a statement of the information sought including its nature, the relevance of the information to the request, and the form in which the applicant State wishes to receive the information from the requested State;
- (c) the tax purpose for which the information is sought;
- (d) grounds for believing that the information requested is held in the requested State or is in the possession or control of a person within the jurisdiction of the requested State;
- (e) to the extent known⁵, the name and address of any person believed to be in possession of the requested information;
- (f) a statement that the applicant State has pursued all means available in its own territory to obtain the information;
- (g) a statement that the request is in conformity with the law and administrative practices of the State of the competent authority, and that the competent authority is authorised to obtain the information under the laws of that State or in the normal course of administrative practice;
- (h) the details of the period within which the applicant State wishes the request to be met; and
- (i) any other information that may assist in giving effect to the request.

2. It is understood that the exchange of information provided in Article 25 does not include measures which constitute "fishing expeditions".

3. It is understood that Article 25 does not require the Contracting States to exchange information on a spontaneous or automatic basis.

I have the further honor to propose that this Note and your Excellency's reply confirming on behalf of your Government the foregoing understanding shall constitute an agreement between the two Governments and which shall come into effect on the date of entry into force of the Protocol signed today.

Accept, Your Excellency, the expression of my highest consideration."

I have the honour to inform you that the Government of the Republic of Singapore confirms the above mentioned understanding and that your Excellency's Note and this Note in reply shall be regarded as constituting an agreement between the two Governments, which shall come into effect on the date of entry into force of the Protocol signed today.

Accept, Your Excellency, the expression of my highest consideration.

Peter Ong
Second Permanent Secretary (Finance)
The Republic of Singapore

⁵ These words were added according to an exchange of notes dating 3rd September and 16th October 2012.