SYNTHESISED TEXT OF THE MLI AND THE AGREEMENT BETWEEN THE GOVERNMENT OF MALAYSIA AND THE GOVERNMENT OF THE CZECH REPUBLIC 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 Malaysia and the Government of the Czech Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed on 8 March 1996 (the "Agreement") as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by Malaysia on 24 January 2018 and by the Czech Republic on 7 June 2017 (the "MLI").

This document was prepared on the basis of the reservations and notifications submitted to the Depositary by Malaysia on 18 February 2021 and by the Czech Republic on 13 May 2020. 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 sole purpose of this document is to facilitate the understanding of the application of the MLI to the Agreement and it 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.

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made to parts of provisions of the MLI that describe existing provisions of the Agreement: descriptive language has been replaced by legal references of the existing provisions to ease the readability.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.

*Subject to changes (whenever applicable)

References

Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (P.U.(A) 224/2020) (provides the authentic legal texts of the MLI).

Agreement between the Government of Malaysia and the Government of the Czech Republic and for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (P.U.(A) 393/1996) (provides, in the case of Malaysia, the authentic legal text of the Agreement).

The MLI position of Malaysia submitted to the Depositary upon ratification on 18 February 2021 and of the MLI position of the Czech Republic submitted to the Depositary upon ratification on 13 May 2020 can be found on the MLI Depositary (OECD) webpage.

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

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 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 Malaysia and the Czech Republic in their MLI positions.

Entry into force of the MLI:

1 June 2021 for Malaysia and 1 September 2020 for the Czech Republic.

Entry into effect of the MLI:

The provisions of the MLI shall have effect to each Contracting State with respect to the 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 2025; and

b) with respect to all other taxes levied by each Contracting State, for taxes levied with respect to taxable periods beginning on or after 13 June 2025.

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

THE GOVERNMENT OF MALAYSIA

AND

THE GOVERNMENT OF THE CZECH REPUBLIC

~~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:

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
PERSONAL SCOPE

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 Malaysia and on behalf of the Czech Republic or of its political subdivision or local authorities, irrespective of the manner in which they are levied.

2. The existing taxes to which the Agreement shall apply are

(a) in the Czech Republic:

(i) the tax on income of individuals; and

(ii) the tax on income of legal persons;

(hereinafter referred to as "Czech tax");

(b) in Malaysia:

(i) the income tax;

(ii) the supplementary income tax that is development tax; and

(iii) the petroleum income tax;

(hereinafter referred to as "Malaysian tax").

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

Article 3

GENERAL DEFINITIONS

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

(a) the term "Czech Republic" means the territory of the Czech Republic over which under the Czech laws and in accordance with the international law, the Czech Republic may exercise its sovereign rights.

(b) the term "Malaysia" means the territories of the Federation of Malaysia, the territorial waters of Malaysia and the sea-bed and subsoil of the territorial waters, and includes any area extending beyond the limits of the territorial waters of Malaysia, and the seabed and subsoil of any such area, which has been or may hereafter be designated under the laws of Malaysia as in accordance with international law as an area over which Malaysia has sovereign rights for the purposes of exploring and exploiting the natural resources, whether living or non- living;

(c) the terms "a Contracting State" and "the other Contracting State" mean the Czech Republic or Malaysia as the context requires;

(d) the term "person" comprises an individual, a company and any other body of persons which is treated as a person for tax purposes;

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

(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 "tax" means Malaysian tax or Czech tax, as the context requires;

(h) the term "national" means:

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

(ii) any legal person, partnership, association and any other entity deriving its status as such from the laws in force in a Contracting State;

(i) 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;

(j) the term "competent authority" means:

(i) in the case of the Czech Republic, the Minister of Finance of the Czech Republic or his authorised representative; and

(ii) in the case of Malaysia, the Minister of Finance or his authorised representative.

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

Article 4
RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

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 in accordance with the following rules:

(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 a 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 an enterprise is wholly or partly carried on.

2. The term "permanent establishment" shall include especially

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

(f) a mine, an oil or gas well, quarry or other place of extraction of natural resources including timber or other forest produce;

(g) a farm of plantation;

(h) a building site or construction, installation or assembly project or supervisory activities in connection with it which exist for more than twelve months.

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

(a) the use of facilities solely for the purpose of storage, display 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 or display;

(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.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State - other than an agent of an independent status to whom paragraph 5 applies - shall be deemed to be a permanent establishment in the first-mentioned State, if he has, and habitually exercises in the first-mentioned State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchasing of goods or merchandise for the enterprise and if he maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he shall not be considered an agent of an independent status if the transactions between the agent and the enterprise were not made under arm's length conditions.

6. 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 situated in the other Contracting State may be taxed in that other State.

2. For the purposes of this Agreement, the term "immovable property" shall be defined in accordance with the laws of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct or immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, oil or gas wells, quarries and other places of

extracting of natural resources including timber or other forest produce. 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 expenses including executive and general administrative expenses which would be deductible if the permanent establishment were an independent enterprise, in so far as they are reasonably allocable to the permanent establishment whether incurred in the State in which the permanent establishment is situated or elsewhere.

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

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

6. For the purpose of the preceding paragraphs, the profits to be attributed to the

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

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

Article 8
SHIPPING, AIR AND LAND 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 the State.

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

Article 9
ASSOCIATED ENTERPRISES

Where –

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

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

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

Article 10
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 law of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

3. Dividends paid by a company which is a resident of Malaysia to a resident of the Czech Republic who is the beneficial owner thereof shall be exempt from any tax in Malaysia which is chargeable on dividends in addition to the tax chargeable in respect of the income of the company. Nothing in this paragraph shall affect the provisions of the Malaysian law under which the tax in respect of a dividend paid by a company which is a resident of Malaysia from which Malaysian tax has been, or has been deemed to be, deducted may be adjusted by reference to the rate of tax appropriate to the Malaysian year of assessment immediately following that in which the dividend was paid.

4. The term "dividends" as used in this Article means income from shares 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 taxation laws of the State of which the company making the distribution is a resident.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State, of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or services. In such a case, the provisions of Article 7 or Article 15, 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 dividends paid by the company except in so far as such dividends are paid to a resident of that other State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid, or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11
INTEREST

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

2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 12 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest to which a resident of the Czech Republic is beneficially entitled shall be exempt from Malaysian tax if the loan or other indebtedness in respect of which the interest is paid is an approved loan as defined in section 2(1) of the Income Tax Act, 1967 of Malaysia.

4. Notwithstanding the provisions of paragraphs 2 and 3, the Government of a Contracting State shall be exempt from tax in the other Contracting State in respect of interest derived by the Government from that other State. For the purposes of this paragraph, the term Government:

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

(i) the governments of the States;

(ii) the local authorities;

(iii) the Bank Negara Malaysia;

(iv) such institutions, the capital of which is wholly owned by the Government of Malaysia or the governments of the States, or the local authorities as may be agreed upon from time to time between the competent authorities of the Contracting States;

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

(i) the governments of the States;

(ii) the local authorities;

(iii) Czech State Bank;

(iv) such institutions, the capital of which is wholly owned by the Government of the Czech Republic or the governments of the States or the local authorities as may be agreed upon 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.

6. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State carries on business in the other Contracting State in which the interest arises, through a permanent establishment or performs in that other State independent personal services and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or services. In such a case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

7. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where,

however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment 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 paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the 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 recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 12 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 patent, trade mark, design or model, plan, secret formula or process, or any copyright of scientific work, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience and any copyright of literary or artistic work.

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 a business through a permanent establishment situated therein, or performs in that other State independent personal services and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or services. In such a case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in

connection with which the obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the State in which the permanent establishment is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the 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 excess1 part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

7. Royalties derived by a resident of the Czech Republic, being royalties that, as film rentals, are subject to the cinematograph film-hire duty in Malaysia, shall not be liable to Malaysian tax.

Article 13
TECHNICAL FEES

1. Technical fees derived from a Contracting State by a resident of the other Contracting State who is the beneficial owner thereof and is subject to tax in that other State in respect thereof may be taxed on the first-mentioned State at a rate not exceeding 10 per cent of the gross amount of the technical fees.

2. The term "technical fees" as used in this Article means payments of any kind to any person, other than to an employee of the person making the payments, in consideration for any services of a technical, managerial or consultancy nature.

3. The provisions of paragraph 1 of this Article shall not apply if the beneficial owner of the technical fees, being a resident of a Contracting State, carries on business in the other Contracting State in which the technical fees arise through a permanent establishment situated therein, or performs in that other State independent personal services, and the technical fees are effectively connected with such permanent establishment or such services. In such a case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

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

5. 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 technical fees paid exceeds, for whatever reason, 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 law of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 14
CAPITAL GAINS

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State 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. However, gains from the alienation of ships or aircraft operated by an enterprise of a Contracting State in international traffic and movable property pertaining to the operation of such ships or aircraft shall be taxable only in the State of which the enterprise is a resident.

3. Gains from the alienation of any property or assets, other than those mentioned in paragraphs 1 and 2 shall be taxable only in the Contracting State of which the alienator is a resident.

Article 15
INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State. However, if independent personal services are performed in the other Contracting State such income may be taxed in the other State in the following circumstances:

(a) if his stay in the other State is for a period or periods amounting to or exceeding in the aggregate 183 days in the calendar year concerned; or

(b) if the remuneration for his services in the other State is either derived from residents of that State or borne by a permanent establishment which a person not resident in that State has in that State and which in either case exceeds

4,000 US dollars in the calendar year concerned, notwithstanding that his stay in that State is for a period or periods amounting to less than 183 days during that calendar year.

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 16
DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 17, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned; and

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

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

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

Article 17
DIRECTOR'S FEES

Director's 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 18
ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 15 and 16, income derived by public entertainers, such as theatre, motion picture, radio or television artistes and musicians, and by athletes from their personal activities as such may be taxed in the other Contracting State, in which these activities are exercised.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.
3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from such activities, as defined in paragraph 1, performed within the framework of cultural exchange between the Governments of both States, shall be exempt from tax in the Contracting State in which the activities are exercised.

Article 19
GOVERNMENT SERVICE

1. (a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to any individual in respect of services rendered to that State or political subdivision or a local authority thereof 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 recipient is a resident of that other State who:

(i) is a national of that other State, or

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

2. Any pensions paid by, or out of funds created by, a Contracting State, a political subdivision or a local authority thereof to any individual in respect of services rendered to that State, political subdivision, local authority thereof shall be taxable only in that State.

3. The provisions of Articles 15, 17 and 20 shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20
PENSION AND ANNUITIES

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

2. The term "annuity" includes 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 21
STUDENTS AND TRAINEES

1. An individual who is 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 received 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 and his presence in the other State does not exceed 183 days in any calendar year.

Article 22
TEACHERS AND RESEARCHERS

1. An individual who is 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 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 which is subject to tax in the first-mentioned Contracting State.

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 23
INCOME NOT EXPRESSLY MENTIONED

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Agreement shall be taxable only in that Contracting State except that if such income is derived from sources in the other Contracting State, it may also be taxed in that other State.

Article 24
ELIMINATION OF DOUBLE TAXATION

1. Subject to the laws of Malaysia regarding the allowance as a credit against Malaysian tax of tax payable in any country other than Malaysia, the Czech tax payable under the laws of the Czech Republic and in accordance with this Agreement by a resident of Malaysia in respect of income derived from the Czech Republic shall be allowed as a credit against Malaysian tax payable in respect of that income. Where such income is a dividend paid by a company which is a resident of the Czech Republic to a company which is a resident of Malaysia and which owns not less than 15 per cent of the voting shares of the company paying the dividend, the credit shall take into account Czech tax payable by that company in respect of its income out of which the dividend is paid. The credit shall not, however, exceed that part of the Malaysian tax, as computed before the credit is given, which is appropriate to such item of income.

2. For the purposes of paragraph 1, the term "Czech tax payable" shall be deemed to include any amount of Czech tax which would, under the law of the Czech Republic and in accordance with this Agreement, have been payable on any income derived from sources in the Czech Republic had the income not been reduced or exempted from Czech tax by virtue of:

(i) incentive laws for promotion of economic development of the Czech Republic, so far as they were in force on, and have not been modified since, the date of signature of the Agreement or have been modified only in minor respects so as not to affect their general character; or

(ii) any other provisions which may subsequently be introduced in the Czech Republic in modification of, or in addition to those laws so far as they are agreed by the competent authorities of the Contracting States to be of a substantially similar character.

3. In the case of a resident of the Czech Republic, double taxation shall be avoided as follows:

The Czech Republic when imposing taxes on its residents may include in the tax base upon which such taxes are imposed the items of income which according to the provisions of this Agreement may also be taxed in Malaysia, but shall allow as a deduction from the amount of tax computed on such a base an amount equal to the tax paid in Malaysia. Where such income is a dividend paid by a company which is a resident of Malaysia to a company which is a resident of the Czech Republic and which owns not less than 15 per cent of the voting shares of the company paying the dividend, the deduction shall take into account Malaysian tax payable by that company in respect of its income out of which the dividend is paid. Such deduction shall not, however, exceed that part of the Czech tax, as computed before the deduction is given, which is appropriate to the income which, in accordance with the provisions of this Agreement, may be taxed in Malaysia.

4. For the purposes of paragraph 3, the term "tax paid in Malaysia" shall be deemed to include Malaysian tax which would, under the laws of Malaysia and in accordance with this Agreement, have been payable on:

(a) any income derived from sources in Malaysia had the income not been taxed at reduced rate or exempted from Malaysian tax by virtue of:

(i) Section 54A, 60A, 60B and Schedule 7A of the Income Tax Act 1967 of Malaysia; or

(ii) incentive laws for promotion of economic development of Malaysia, so far as they were in force on, and have not been modified since, the date of signature of the Agreement or have been modified only in minor respects so as not to affect their general character; or

(iii) any other provisions which may subsequently be introduced in Malaysia in modification of, or in addition to those laws so far as they are agreed by the competent authorities of the Contracting States to be of a substantially similar character;

(b) interest to which paragraph 3 of Article 11 applies had that interest not been exempted from Malaysian tax in accordance with that paragraph.

5. For the purpose of paragraph 3, where royalties derived by a resident of the Czech Republic are, as film rentals, subject to cinematograph film hire duty in Malaysia, that duty shall be deemed to be Malaysian tax.

Article 25

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

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.

4. In this Article, the term "taxation" means taxes to which this Agreement applies.

Article 26
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 the provisions of this Agreement, he may, notwithstanding the remedies provided by the laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.~~

ARTICLE 16 OF THE MLI - MUTUAL AGREEMENT PROCEDURE

The following first sentence of paragraph 1 of Article 16 of the MLI replaces the first sentence of paragraph 1 of Article 26 of this Agreement:

Where a person considers that the actions of one or both of the Contracting States result or will result for that person in taxation not in accordance with the provisions of this Agreement, that person may, irrespective of the remedies provided by the domestic law of those Contracting States, present the case to the competent authority of either Contracting State.

The following second sentence of paragraph 1 of Article 16 of the MLI applies and supersedes to this Agreement:

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 an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with

a view to the avoidance of taxation which is not in accordance with the Agreement.

The following second sentence of paragraph 2 of Article 16 of the MLI applies to this Agreement:

ARTICLE 16 OF THE MLI - MUTUAL AGREEMENT PROCEDURE

Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting State.

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

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

Article 27
EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by this Agreement in particular for the prevention or detection of evasion or avoidance of taxes covered by this Agreement. Any information so exchanged shall be treated as secret and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment, collection, enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of the Agreement.

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

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

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

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

Article 28
DIPLOMATIC AGENTS AND CONSULAR OFFICERS

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 and supersedes 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 29
ENTRY INTO FORCE

1. This Agreement shall be ratified and the instruments of ratification shall be exchanged at PRAGUE as soon as possible.

2. This Agreement shall enter into force upon the exchange of the instruments of ratification and its provisions shall have effect:

(a) in Malaysia:

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

(b) in the Czech Republic:

(i) in respect of taxes withheld at source, to amounts derived on or after 1st January in the calendar year next following that in which the Agreement enters into force;

(ii) in respect of other taxes on income, to taxes chargeable for any taxable year beginning on or after 1st January in the calendar year next following that in which the Agreement enters into force.

Article 30
TERMINATION

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

(a) in the Czech Republic –

(i) in respect of taxes withheld at source, to amounts derived on or after 1st January in the calendar year next following that in which the notice is given;

(ii) in respect of other taxes on income, and taxes chargeable for any taxable year beginning on or after 1st January in the calendar year next following that in which the notice is given;

(b) in Malaysia –

in respect of Malaysian tax for any year of assessment beginning on or after 1st January in the second calendar year following the year in which the notice is given.

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

DONE in duplicate at Kuala Lumpur this 8 day of March 1996 in Bahasa Malaysia, the Czech, and English language, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF MALAYSIA	FOR THE GOVERNMENT OF THE CZECH REPUBLIC