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Signed: 5 October 2004
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**AGREEMENT BETWEEN THE GOVERNMENT OF MALAYSIA 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 Malaysia and the Government of the Republic of Singapore desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

Article 1

PERSONAL SCOPE

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

Article 2

TAXES COVERED

1. This Agreement shall apply to taxes on income imposed by a Contracting State, irrespective of the manner in which they are levied.

2. The taxes which are the subject of this Agreement are:

(a) in Malaysia:

(i) the income tax; and

(ii) the petroleum income tax;

(hereinafter referred to as "Malaysian tax");

(b) in Singapore:

- the income tax;

(hereinafter referred to as "Singapore tax").

3. The 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 each other of important 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 "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 when used in a geographical sense includes any area extending beyond the limits of the territorial waters of Malaysia, and the sea-bed and subsoil of any such area, which has been or may hereafter be designated under the laws of Malaysia and 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:

Provided that nothing contained in the above definition shall be construed as conferring recognition or acceptance by one Contracting State of the outstanding maritime and territorial claims made by the other Contracting State, nor shall be taken as pre-judging the determination of such claims;

- (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:

Provided that nothing contained in the above definition shall be construed as conferring recognition or acceptance by one Contracting State of the outstanding maritime and territorial claims made by the other Contracting State, nor shall be taken as pre-judging the determination of such claims;

- (c) the terms "a Contracting State" and "the other Contracting State" mean Malaysia or Singapore as the context requires;
- (d) the term "person" includes 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 Singapore 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, aircraft or road vehicle operated by an enterprise of a Contracting State, except when the ship, aircraft or road vehicle is operated solely between places in the other Contracting State;
- (j) the term "competent authority" means:
 - (i) in the case of Malaysia, the Minister of Finance or his authorised representative; and
 - (ii) in the case of Singapore, the Minister for Finance or his authorised representative.

2. As regards the application of this 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 this 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:

- (a) in the case of Malaysia, a person who is resident in Malaysia for the

purposes of Malaysian tax;

- (b) in the case of Singapore, a person who is resident in Singapore for the purposes of Singapore tax;

and also includes that State, any political subdivision, local authority or a 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 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 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, a quarry or any other place of extraction of natural resources; and
- (g) a building site or construction, installation or assembly project, which exists for more than 6 months.

3. 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.

4. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on supervisory activities in that other State for more than 6 months in connection with a building site or a construction, installation or assembly project which is being undertaken in that other State.

5. Where a person (other than a broker, general commission agent or any other agent of an independent status to whom paragraph 6 applies) is acting in a Contracting State on behalf of an enterprise of the other Contracting State that enterprise shall be deemed to have a permanent establishment in the first-mentioned State if that person:

- (a) 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 purchase of goods or merchandise for the enterprise; or

- (b) 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.

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

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.

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. 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 of 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 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 on so much thereof 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, insofar as they are reasonably allocable to the permanent establishment, whether incurred in the State in which the permanent establishment is situated or elsewhere.

4. If the information available to the competent authority is inadequate to determine the profits to be attributed to the permanent establishment of an enterprise, nothing in this Article shall affect the application of any law of that State relating to the determination of the tax liability of a person by the exercise of a discretion or the making of an estimate by the competent authority, provided that the law shall be applied, so far as the information available to the competent authority permits, in accordance with the principles of this Article.

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

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

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

Article 8

SHIPPING, AIR AND ROAD TRANSPORT

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

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

- (a) the rental on a bare boat basis of ships or aircraft used in international traffic;
- (b) the use or rental of containers,

if such profits are incidental to the profits to which the provisions of paragraph 1 apply.

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

4. Profits derived by an enterprise of a Contracting State from the operation of road vehicles in international traffic for the carriage of passengers shall be taxable only in that State.

Article 9

ASSOCIATED ENTERPRISES

1. Where-

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

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

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

2. Where a Contracting State includes in the profits of an enterprise of that State

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

Article 10

DIVIDENDS

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

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

(a) 5 percent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 25 percent of the capital of the company paying the dividends; and

(b) 10 percent of the gross amount of the dividends in all other cases.

The provisions of 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 provision of paragraph 2, as long as a Contracting State does not impose a tax on dividends in addition to the tax chargeable on the profits or income of a company, dividends paid by a company which is a resident of that Contracting State to a resident of the other Contracting State shall be exempt from any tax in the first-mentioned State which may be chargeable on dividends in addition to the tax chargeable on the profits or income of the company. However, where either or both of the Contracting States impose a tax on dividends in addition to the tax chargeable on the profits or income of a company, the rates as prescribed under the provisions of paragraph 2 shall apply.

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

distribution is a resident.

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

6. Where a company which is a resident of a Contracting State derives income or profits from the other Contracting State, that other State may not impose any tax on the dividends paid by the company to persons who are not residents of that other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of income or profits arising in such other State.

7. Nothing in this Article shall be construed to mean that as at the date of the signature of this Agreement either of the Contracting States imposes a tax on dividends in addition to the tax chargeable on the profits or income of a company.

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 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraphs 2, interest to which a resident of Singapore 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.

5. For the purposes of paragraph 4, 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 Bank Negara Malaysia;
 - (iii) the local authorities;
 - (iv) the statutory bodies; and
 - (v) the Export-Import Bank of Malaysia Berhad;
- (b) in the case of Singapore means the Government of the Republic of Singapore and shall include:
- (i) the Monetary Authority of Singapore;
 - (ii) the Government of Singapore Investment Corporation Pte. Ltd.; and
 - (iii) the statutory bodies.

6. 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 debtors profits, and in particular, income from government securities and income from bonds or debentures.

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

8. 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.

9. 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 beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 8 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 (know-how) 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 such 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 obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such 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 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 a 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

TECHNICAL FEES

1. Technical fees derived from one of the Contracting States by a resident of the other Contracting State who is the beneficial owner thereof may be taxed in the first-mentioned Contracting State. However, the tax so charged shall not exceed 5 percent 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 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 from a fixed base situated therein, and the technical fees are 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.

4. Technical fees shall be deemed to arise in a Contracting State when the payer is a resident of that State and the services are performed in 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 or a fixed base in connection with which the obligation to pay the technical fees was incurred, and such technical fees are borne by such permanent establishment or fixed base, then such technical fees shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated if the services are performed in that State.

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

INDEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Article 13, 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 unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

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, 19, 20 and 21 salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

- (a) the recipient is present in the other Contracting 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 resident or 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 operated in international traffic, or road vehicle operated in international traffic for the carriage of passengers, 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 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.

3. The provisions of paragraphs 1 and 2 shall not apply to remuneration or profits derived from activities exercised in a Contracting State if the visit to that State is directly or indirectly supported wholly or substantially from the public funds of the other Contracting State, a political subdivision, a local authority or a statutory body thereof.

Article 18

PENSIONS

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

GOVERNMENT SERVICE

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

statutory body thereof 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 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 purposes of performing the services.

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

3. The provisions of Articles 15, 16, 17 (paragraphs 1 and 2) and 18 shall apply to salaries, wages and other similar 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 or a statutory body thereof.

Article 20

STUDENTS AND TRAINEES

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; and

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

Article 21

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 a public university, college, institution which exists primarily for research purposes or other similar public institution, visits that other State for a period not exceeding two years solely for the purpose of teaching or research or both at such public 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 teaching or research if such teaching or research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

Article 22

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 23

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, Singapore tax payable under the laws of Singapore and in accordance with this Agreement by a resident of Malaysia in respect of income derived from Singapore 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 Singapore to a company which is a resident of Malaysia and which owns not less than 10 per cent of the voting shares of the company paying the dividend, the credit shall take into account Singapore 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 "Singapore tax payable" shall be deemed to include Singapore tax which would, under the laws of Singapore and in accordance with this Agreement, have been payable on any income derived from sources in Singapore had the tax not been reduced or exempted in accordance with:

- (a) the provisions of Parts II, III, IIIA, IIIB, VIII and X of the Economic

Expansion Incentives (Relief from Income Tax) Act and the provisions of section 13(4) (only in respect of income referred to in section 12(6)), 13A, 13B (only in respect of exempt dividends paid out of income taxed under section 43C), 13F and 43C of the Income Tax Act, in so far as they were in force and have not been modified since the date of signature of this Agreement, or have been modified in minor respects so as not to affect their general character; or

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

3. Subject to the provisions of the laws of Singapore regarding the allowance as a credit against Singapore tax of tax payable in any country other than Singapore, Malaysian tax payable, whether directly or by deduction, in respect of income from sources in Malaysia shall be allowed as a credit against Singapore tax payable in respect of that income. Where such income is a dividend paid by a company which is a resident of Malaysia to a resident of Singapore which is the beneficial owner of the dividend, the credit shall take into account (in addition to any Malaysian tax on the dividend) the Malaysian 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 Singapore tax, as computed before the credit is given, which is appropriate to such item of income.

4. For the purposes of paragraph 3, the term "Malaysian tax payable" 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 tax not been reduced or exempted in accordance with:
 - (i) sections 54A, 60A, 60B, Schedule 7A and 7B of the Income Tax Act 1967 of Malaysia; or
 - (ii) sections 22, 23, 29, 29A, 29B, 29C, 29D, 29E, 29F, 29G, 29H, 31E and 41B of the Promotion of Investments Act 1986 of Malaysia, in so far as they were in force and have not been modified since the date of signature of this Agreement, or have been modified in minor respects so as not to affect their general character, or
 - (iii) any other provisions which may subsequently be introduced in Malaysia in modification of, or in addition to, those laws in so far as they are agreed by the competent authorities of the Contracting States to be of a substantially similar character; and

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

5. The provisions of paragraphs 2 and 4 shall cease to have effect after ten years from the year of assessment beginning on the first day of January of:

- (a) in Malaysia-

the calendar year following the year in which this Agreement enters into force;

- (b) in Singapore-

the second calendar year following that in which this Agreement enters into force.

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

Article 24

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 in the same circumstances or under the same conditions.

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. Nothing in this Article shall be construed as obliging:

- (a) a Contracting State to grant to individuals who are resident of the other Contracting State any personal allowances, reliefs and reductions for tax purposes on account of civil status or family responsibilities which it

grants to its own residents;

- (b) a Contracting State to grant to nationals of the other Contracting State not resident in the first-mentioned State those personal allowances, reliefs and reductions for tax purposes which are by law available on the date of signature of this Agreement only to nationals of the first-mentioned State who are not resident in that State.

5. Nothing in this Article shall be construed so as to prevent either Contracting State from limiting to its nationals the enjoyment of tax incentives designed to promote social or economic development in that State.

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

Article 25

MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Agreement, he may, notwithstanding the remedies provided by the taxation laws of those States, present his case to the competent authority of the State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the 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 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.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubt 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 purposes of reaching an agreement in the preceding paragraphs.

Article 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such

information as is necessary for the carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement insofar as the taxation thereunder is not contrary to the Agreement or 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 a court or reviewing authority) concerned with 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 a Contracting State the obligation:

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

Article 27

DIPLOMATIC AND CONSULAR OFFICERS

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

Article 28

ENTRY INTO FORCE

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

- (a) in Malaysia-
 - (i) in respect of Malaysian tax, other than petroleum income tax, to tax chargeable for any year of assessment beginning or after the first day of January in the calendar year following the year in which this Agreement enters into force;

- (ii) in respect of petroleum income tax, to tax chargeable for any year of assessment beginning on or after the first day of January of the second calendar year following the year in which this Agreement enters into force;

(b) in Singapore-

in respect of tax chargeable for any year of assessment beginning on or after the first day of January in the second calendar year following that in which this Agreement enters into force.

2. The Agreement between the Government of Malaysia 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 Singapore on 26 December 1968, as amended by Supplementary Agreement amending the Agreement between the Government of Malaysia 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 Kuala Lumpur on 6 July 1973, shall be terminated and cease to have effect in respect of income to which this Agreement applies under the provision of paragraph 1.

Article 29

TERMINATION

This Agreement shall remain in effect indefinitely, but either Contracting States may terminate the Agreement, through diplomatic channel, by giving to the other Contracting State written notice of termination on or before June 30th in any calendar year after the period of five years from the date on which this Agreement enters into force. In such an event the Agreement shall cease to have effect:

(a) in Malaysia-

- (i) in respect of Malaysian tax, other than petroleum income tax, to tax chargeable for any year of assessment beginning on or after the first day of January in the calendar year following the year in which the notice is given;
- (ii) in respect of petroleum income tax, to tax chargeable for any year of assessment beginning on or after the first day of January of the second calendar year following the year in which the notice is given;

(b) in Singapore-

in respect of tax chargeable for any year of assessment beginning on or after the first day of January in the second calendar year following that 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 Putrajaya this 5th day of October 2004, each in Bahasa Melayu and the English Language, both texts being equally authentic. In the event of there being a dispute in the interpretation and the application of this Agreement, the English text shall prevail.

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 Malaysia and the Government of the Republic of Singapore, the undersigned have agreed that the following provisions shall form an integral part of the Agreement.

1. For the purposes of Article 4, the "place of effective management" is the place where the control and management of the business is exercised.
2. For the purposes of Article 5 paragraph 5(b), the enterprise of a Contracting State will be deemed to have a permanent establishment in the other Contracting State only if the agent acting on behalf of the enterprise also takes orders from customers in addition to regularly filling of the orders out of the stock of goods or merchandise belonging to the enterprise.
3. For the purposes of Article 10 only, a company which is a resident of one of the Contracting States may when paying a dividend declare itself to be a resident of the other Contracting State. In such a case, the last-mentioned State shall allow to the recipient of such dividend a tax setoff under section 46 of the Income Tax Act (Singapore) or section 110 of the Income Tax Act, 1967 (Malaysia), as the case may be, equal to the tax which would have been deducted from such dividend under the provisions of section 44 of the Income Tax Act (Singapore) or section 108 of the Income Tax Act, 1967 (Malaysia), as the case may be, had the dividend been paid by a company resident in that State. The provisions of the second sentence shall not affect the provisions of the law of that State under which the tax deducted from the dividend may be adjusted by reference to the rate of tax appropriate to the year of assessment immediately following that in which the dividend was paid.
4. The provisions of paragraph 3 shall cease to have effect in respect of

dividends paid on or after 1st January 2008.

5. For the purposes of this Agreement-

(a) the Government of one of the Contracting States shall be exempt from tax in respect of any income derived from sources within the other Contracting State. For the purposes of this paragraph, the term "Government" shall include-

(i) in the case of Malaysia-

(aa) the Governments of the States;

(bb) the Bank Negara Malaysia;

(cc) any local or statutory authority exempt from tax in Malaysia; and

(dd) such institutions, as may be agreed from time to time between the two Contracting States;

(ii) in the case of Singapore-

(aa) the Monetary Authority of Singapore;

(bb) the Government of Singapore Investment Corporation Pte. Ltd.;

(cc) any statutory authority exempt from tax in Singapore; and

(dd) such institutions, as may be agreed from time to time between the two Contracting States; and

(b) the income derived by any pension or provident fund or society of one of the Contracting States from sources within the other Contracting State shall be exempt from tax in that other Contracting State if such fund or society is an approved fund or society under the taxation law of the first-mentioned Contracting State.

6. Where the income referred to in paragraphs 5(a) and (b) is a dividend paid by a company which is a resident of one of the Contracting States to the Government or to an approved pension or provident fund or society of the other Contracting State, the recipient of the dividends shall also receive from the Contracting State of which the company paying the dividends is a resident a refund of the tax deducted from such dividends under the provisions of section 44 of the Income Tax Act (Singapore) or section 108 of the Income Tax Act, 1967 (Malaysia), as the case may be.

7. The provisions of paragraphs 5 and 6 shall cease to have effect in respect of income derived on or after 1st January 2008.

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

DONE in duplicate at Putrajaya this 5th day of October 2004, each in Bahasa Melayu and the English Language, both texts being equally authentic. In the event of there being a dispute in the interpretation and the application of this Protocol, the English text shall prevail.