AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE AND THE GOVERNMENT OF HIS MAJESTY THE SULTAN AND YANG DI-PERTUAN OF BRUNEI DARUSSALAM

FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

Date of Conclusion: 19 August 2005

Entry into Force: 14 December 2006

Effective Date: 1 January 2007

NOTE

The protocol signed on 13 November 2009 entered into force on 29 August 2010 and its provisions shall take effect from 29 August 2010. .

The text of the protocol signed on 13 November 2009 is shown in Annex A.

The Government of the Republic of Singapore and the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam,

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 on behalf of each Contracting State irrespective of the manner in which they are levied.

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

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

(a) in Singapore:

income tax imposed under Income Tax Act, (Cap 134);

(hereinafter referred to as "Singapore tax");

(b) in Brunei Darussalam:

(i) income tax imposed under Income Tax Act, (Cap. 35);
(ii) petroleum profits tax imposed under Income Tax (Petroleum) Act, (Cap. 119);

(hereinafter collectively referred to as "Brunei Darussalam tax").

4. This Agreement shall apply also to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes referred to in paragraph 3 above. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws within a reasonable period of time after such changes.

5. If by reason of changes made in the taxation law of either Contracting State, it appears desirable to amend any Article of this Agreement without affecting the general principles thereof, the necessary amendments may be made by mutual consent by means of an exchange of diplomatic notes or in any other manner in accordance with their constitutional procedures.

Article 3 - General Definitions

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

(a) the term "Singapore" means:

the territory of Singapore and its territorial sea over which Singapore exercises its sovereignty, as well as the adjacent areas over which Singapore has sovereign rights or jurisdiction in accordance with the provisions of the United Nations Convention on the Law of the Sea, 1982;

(b) the term "Brunei Darussalam" means:

the territory of Brunei Darussalam as defined in its laws and its territorial sea over which Brunei Darussalam exercises its sovereignty, as well as the adjacent areas over which Brunei Darussalam has sovereign rights or jurisdiction in accordance with the provisions of the United Nations Convention on the Law of the Sea, 1982;

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

(d) the term "tax" means Singapore tax or Brunei Darussalam tax as the context requires;

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

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

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

(h) the term "national" means:

(i) (a) in Singapore:

any natural person who possesses the status of a national under the applicable laws in Singapore;

(b) in Brunei Darussalam:
any natural person who possesses the status of a national under the applicable laws in Brunei Darussalam;

(ii) any legal person, partnership and association or 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 which is 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 Singapore: the Minister for Finance or his authorised representative;

(ii) in Brunei Darussalam: the Minister for Finance or his authorised representative.

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

Article 4 - Resident

1. For the purpose of this Agreement, the term "resident of a Contracting State" means any person who is resident in a Contracting State for tax purposes of that Contracting State, and includes the Government of that Contracting State and any local authority or statutory body thereof.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:

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

(b) if the Contracting 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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;

(c) if he has an habitual abode in both Contracting States or in neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which the control and management of its business is exercised. If the place of control and management of its business cannot be determined, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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 store, warehouse or premises used as a sales outlet unless the activities fall within paragraphs 3(a) or (b);

(e) a factory;

(f) a workshop;

(g) a farm or plantation;

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

(i) a drilling rig or working ship used for the exploration of natural resources but only where the activity continues for a period of more than 3 months;

(j) a building site or construction project or supervisory activities in connection therewith, provided such site, project or activity continues for a period of more than 183 days;

(k) an assembly or installation project which exists for more than 6 months; and

(l) the furnishing of services, including consultancy services by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than 3 months within any twelve month period.

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

(a) the use of facilities solely for the purposes 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 purposes of processing by another enterprise;

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting 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 Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person has and habitually exercises in that Contracting State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 3 which, if exercised through a fixed place of business would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

5. An insurance enterprise of a Contracting State shall, except with regard to reinsurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in that other Contracting State or insures risks situated therein through an employee or through a representative who is not an agent of an independent status within the meaning of paragraph 6.

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 Contracting State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise or its associated enterprises, he will not be considered an agent of an independent status within the meaning of this paragraph.

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 Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6 - Income From Immovable Property

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

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

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

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

Article 7 - Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that Contracting 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 Contracting 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 which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere, but this does not include any expenses which under the law of that Contracting State would not be allowed to be deducted by an enterprise of that Contracting State.

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

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

Article 8 – Shipping and Air Transport

1. Notwithstanding the provisions of Article 7, profits from the operation of ships or aircraft in international traffic carried on by an enterprise of a Contracting State shall be taxable only in that Contracting State.

2. The provisions of paragraph 1 of this Article shall likewise apply to profits derived from the participation in pools, in a joint business or in an international operating agency of any kind by enterprises engaged in the operation of ships or aircraft in international traffic.

3. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic mean profits from the carriage of passengers, mail, livestock or goods shipped or loaded into a ship or an aircraft in a Contracting State (excluding the profits accruing from passengers, mail, livestock or goods which are brought to that Contracting State solely for transhipment, or for transfer from one aircraft to another or from one aircraft to a ship or from a ship to an aircraft) and shall include:

(a) profits derived from the rental on a bare boat basis of ships or aircraft used in international traffic, and

(b) profits derived from the use or rental of containers,

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

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

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 Contracting State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that Contracting State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 10 per cent of the gross amount of the dividends. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

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

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

4. 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 Contracting 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.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other Contracting State may not impose any tax on the dividends paid by the company except in so far as such dividends are paid to a resident of that other Contracting State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other Contracting 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 Contracting State.

6. (a) Under the current domestic laws of both Contracting States, where dividends are paid by a company which is a resident of one Contracting State to a resident of the other Contracting State who is the beneficial owner of such dividends, there is no tax chargeable on dividends in addition to the tax chargeable in respect of the profits or income of the company. Under the full imputation system currently adopted in Singapore up to 31st December 2007, the tax deductible from dividends is a tax on the profits or income of the company and not a tax on dividends within the meaning of this Article.

(b) If, subsequent to the signing of this Agreement, either Contracting State imposes a tax on dividends in addition to the tax chargeable in respect of the profits or income of a company which is a resident of that Contracting State, such tax may be charged but the tax so charged on the dividends derived by a resident of the other Contracting State who is the beneficial owner of such dividends shall be in accordance with the provisions of paragraph 2.

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 Contracting State.

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

(a) 5 per cent of the gross amount of the interest if it is received by any bank or financial institution; or

(b) 10 per cent of the gross amount of the interest in all other cases.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to the Government of the other Contracting State, shall be exempt from tax in the first-mentioned Contracting State, provided the activities giving rise to such interest are non-commercial in nature.

For the purposes of this paragraph, the term “Government”:

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

(i) the Monetary Authority of Singapore;

(ii) the Government of Singapore Investment Corporation Pte Ltd;

(iii) any local or statutory authority or body exempt from tax in Singapore; and

(iv) such institutions as may be agreed from time to time between the competent authorities of the two Contracting States;

(b) in the case of Brunei Darussalam, the Government of Brunei Darussalam and shall include:

(i) the Brunei Currency and Monetary Board;

(ii) the Brunei Investment Agency;

(iii) any local or statutory authority or body exempt from tax in Brunei Darussalam; and

(iv) such institutions as may be agreed from time to time between the competent authorities of the two Contracting States.

4. The terms "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as income assimilated to income from money lent by the taxation laws of the Contracting State in which the income arises including interest on deferred payment sales. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other Contracting 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 a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

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

8. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid to take advantage of this Article by means of that creation or assignment.

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 Contracting State.

2. However, such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that Contracting State, but, if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 10 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 cinematographic films or tapes for television or broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial or scientific experience.

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

5. The provisions of paragraphs 1, 2 and 4 shall likewise apply to proceeds arising from the alienation of any copyright of scientific work, any patent, trade mark, design or model, plan or secret formula or process.

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

7. Where, 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 that case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 13 - Capital Gains

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

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other Contracting State. However, this provision shall not apply to the gains derived from such alienation of property to which the provisions of paragraph 6 of Article 12 apply.

3. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that Contracting State.

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

Article 14 - Independent Personal Services

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that Contracting State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities or he is present in that other Contracting State for a period or periods exceeding in the aggregate 183 days within any twelve month period. If he has such a fixed base or remains in that other Contracting State for the aforesaid period or periods, the income may be taxed in that other Contracting State but only so much of it as is attributable to that fixed base or is derived in that other Contracting State during the aforesaid period or periods.

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

Article 15 - Dependent Personal Services

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment, shall be taxable only in that Contracting 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 the other Contracting 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 exempt from tax in that other Contracting State if -

(a) the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days within any twelve-month period commencing or ending in the calendar year concerned; and

(b) the remuneration is paid by, or on behalf of, an employer who is a resident of the first-mentioned Contracting State; and

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

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

Article 16 - Directors' Fees

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

2. The remuneration which a person to whom paragraph 1 applies derives from the company in respect of the discharge of day-to-day functions of a managerial or technical nature may be taxed in accordance with the provisions of Article 15.

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 Contracting State.

2. Where income in respect of or in connection with personal activities exercised in a Contracting State 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 that Contracting State in which the activities of the entertainer or sportsman are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from activities referred to in paragraph 1 shall be exempt from tax in the Contracting State in which the activities are exercised if the visits to that Contracting State are wholly or substantially supported by funds of one or both of the Contracting States, a local authority, statutory body or public institution thereof.

Article 18 - Pensions

1. Subject to the provisions of paragraph 2 of Article 19, any pension or other similar remuneration paid to a resident of one of the Contracting States from a source in the other Contracting State in consideration of past employment or services in that other Contracting State and any annuity paid to such a resident from such a source may be taxed in that other Contracting State.

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

Article 19 - Government Service

1. (a) Remuneration, including benefits other than a pension, paid by a Contracting State or a local authority thereof to an individual in respect of services rendered to that Contracting State or authority shall be taxable only in that Contracting State.

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

(i) is a national of that Contracting State; or

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

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

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

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

Article 20 - 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 that other Contracting State solely:

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

(b) as a recipient of grant, allowance or award for the primary purpose of study or research from a Governmental, religious, charitable, scientific, literary or educational organisation; or

(c) as a business or technical apprentice,

shall be exempt from tax of that other Contracting State in respect of-

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

(ii) the grant, allowance or award.

2. An individual who was a resident of a Contracting State immediately before visiting the other Contracting State and is temporarily present in that other Contracting State solely as a trainee for the purpose of acquiring technical, professional or business experience, shall for a period not exceeding 4 years from the date of his first arrival in that other Contracting State in connection with that visit be exempt from tax in that other Contracting State in respect of all remittances from abroad for the purposes of his maintenance or training.

3. The benefits of paragraphs 1 and 2 shall not be concurrently cumulative.

Article 21 - Teachers

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, school or other similar educational institution, which is recognised by the competent authority in that other Contracting State, visits that other Contracting 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 Contracting State on his remuneration for such teaching or research, provided that such remuneration is from sources outside that other 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 - Other Income

Items of income of a resident of a Contracting State arising in the other Contracting State and not dealt with in the foregoing Articles of this Agreement may be taxed in that other Contracting State.

Article 23 - Methods For Elimination Of Double Taxation

1. Double taxation shall be avoided as follows:

(a) In Singapore:

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

(b) In Brunei Darussalam:

Subject to the provisions of the laws of Brunei Darussalam regarding allowances as a credit against Brunei Darussalam tax of tax payable in a territory outside Brunei Darussalam (which shall not affect the general principle hereof), tax payable under the laws of Singapore and in accordance with this Agreement, whether directly or by deduction, on profits or income from sources within Singapore shall be allowed as a credit against any Brunei Darussalam tax computed by reference to the same profits or income on which the Singapore tax is computed.

2. For the purpose of allowance as a credit in a Contracting State, the tax paid in the other Contracting State shall be deemed to include the tax which is otherwise payable in that other Contracting State but has been reduced or exempted in accordance with special incentive laws designed to promote economic development in that other Contracting State.

3. The provisions of paragraph 2 shall cease to have effect after ten years from the year of assessment beginning on 1 January of the calendar year immediately 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. 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 Contracting 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 Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities.

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

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

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

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

5. Where a Contracting State grants tax incentives to its nationals designed to promote economic or social development in accordance with its national policy and criteria, it shall not be construed as discrimination under this Article.

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

Article 25 - Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the national laws of those Contracting States, present his case to the competent authority of the Contracting State of which he is resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this 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 not in accordance with the Agreement. Any Agreement reached shall be implemented notwithstanding any time limits in the national laws of the Contracting States.

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

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of applying the provisions of this Agreement.

Article 26 - 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 national laws of the Contracting State concerning taxes covered by this Agreement, in so far as the taxation thereunder is not contrary to the Agreement, in particular for the prevention of fraud or evasion of such taxes. Any information received by a Contracting State shall be treated as a secret in the same manner as information obtained under the national laws of the Contracting State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of the Agreement. Such persons or authorities shall use the information only for

such purposes including the disclosure of such information in public court proceedings or in judicial decisions.

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 information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

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

Article 27 - Members Of Diplomatic Missions And Consular Posts

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

Article 28 - Entry Into Force

1. This Agreement shall enter into force on the later of the dates on which the respective Governments may notify each other in writing through the exchange of diplomatic notes indicating that the formalities constitutionally required in their respective Contracting States have been complied with.

2. This Agreement shall have effect for the year of assessment beginning on or after 1st January in the calendar year immediately following the year in which this Agreement enters into force and subsequent years of assessment.

Article 29 - Termination

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving written notice of termination on or before the thirtieth of June of any calendar year following after the period of five years from the year in which this Agreement enters into force. In such event, this Agreement shall cease to have effect for the year of assessment beginning on or after 1st January in the second calendar year following the year in which the notice is given and subsequent years of assessment.

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

Done in duplicate at Singapore on the 19th day of August 2005, in the English and Malay languages, both texts being equally authentic. In case of divergence in interpretation, the English text shall prevail.

For the Government of the Republic of Singapore	For the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam

ANNEX A

PROTOCOL AMENDING THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE AND THE GOVERNMENT OF HIS MAJESTY THE SULTAN AND YANG DI-PERTUAN OF BRUNEI DARUSSALAM

FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the Republic of Singapore and the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam

Desiring to amend the Agreement between the Government of the Republic of Singapore and the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at Singapore on 19 August 2005 (hereinafter referred to as "the Agreement"),

Have agreed as follows:

ARTICLE I

The text of Article 26 of the Agreement is deleted and replaced by the following:

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

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

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

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

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

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

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

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

ARTICLE II

1. With reference to paragraph 5 of Article 26 of the Agreement, it is understood that:

(a) the provisions of that paragraph shall not be construed as preventing a Contracting State from declining to supply information held by any institution referred to in paragraph 3 of Article 11 of the Agreement, as the supply of the information is contrary to public policy;

(b) a Contracting State may decline to supply information relating to confidential communications between attorneys, solicitors or other admitted legal representatives in their role as such and their clients to the extent that the communications are protected from disclosure under the domestic law of that Contracting State.

ARTICLE III

This Protocol shall enter into force on the thirtieth day after the date of the receipt of the later of the two notifications through diplomatic channels by which either Contracting State notifies the other Contracting State that its internal legal requirements for the entry into force of this Protocol have been fulfilled.

ARTICLE IV

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

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

Done in duplicate at Singapore on this 13th day of November, 2009 in the Malay and English languages, both texts being equally authentic. In case of any divergence in interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF THE

REPUBLIC OF SINGAPORE

FOR THE GOVERNMENT OF HIS MAJESTY THE SULTAN AND

YANG DI-PERTUAN OF

BRUNEI DARUSSALAM