

# Act (2004:874) on tax treaties between Sweden and Malaysia

SFS : 2004:874 Ministry / Authority : Ministry of Finance S3 Issued : 2004-10-21 Modified SFS 2010:1410 Printed version : [pdf, without changes \(Lagrummet\)](#) Change Record : [SFSR \(Lagrummet\)](#) Source : Cabinet Office / Lagrummet

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**1 §** The agreement for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income as Sweden and Malaysia signed on 12 March 2002, together with the protocol and the correspondence which is annexed hereto and forming a part of this, apply the law in this country. Agreement and the Protocol is written in Swedish, Malay and English. The exchange of letters is written in English. The Swedish and English text in an appendix to this Act.

**2 §** Agreement taxation rules apply only to the extent that they present a barrier to the charge in Sweden that would otherwise exist.

**3 §** Have been repealed by *Act (2011:1410)* .

## Transitional provisions

2004:874

1. This Act comes into force on the day the Government and applied

a) in respect of taxes withheld at source, to income derived on January 1 calendar year next following the year in which the Act comes into force or later, and

b) in respect of other taxes on income, to taxes chargeable for any tax year beginning on 1 January of the calendar year next following the year in which the Act enters into force.

2nd The Act repeals the Act (1995:542) on the double taxation treaty between Sweden and Malaysia.

**The repealed Constitution shall continue to apply**

- a) in respect of taxes withheld at source, to income derived before 1 January of the calendar year next following the year in which the Act comes into force, and
- b) in respect of other taxes on income, to taxes chargeable for any tax year beginning before 1 January of the calendar year next following the year in which the Act comes into force.

2005:654

Government stipulates that the Act (2004:874) on tax treaties between Sweden and Malaysia will come into force on 31 December 2005.

The Agreement entered into force on 29 January 2005.

## **Annex**

### **Agreement between the Government of Sweden and the Government of Malaysia for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income**

Government of Sweden and the Government of Malaysia, desiring to conclude an Agreement for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

#### **Article 1**

##### **Persons to whom this Agreement applies**

This Agreement shall apply to persons who are residents of a Contracting State or of both Contracting States.

#### **Article 2**

Taxes covered by the Agreement

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

a) in Malaysia:

- 1) the income tax, and
  - 2) the petroleum income tax;
- (Hereinafter referred to as "Malaysian tax"),

b) in Sweden:

- 1) the national income,
- 2) withholding tax,
- 3) the income tax on non-residents,
- 4) the income tax on non-resident artistes and
- 5) the municipal income tax

(Hereinafter referred to as "Swedish tax").

second This Agreement shall also apply to taxes on income of the same or

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

### **Article 3**

#### General Definitions

1. Unless the context otherwise requires, the purposes of this Agreement, the following terms as defined below:

- a) "Malaysia" means the Federation of Malaysian territory, its territorial waters and the territorial sea is the sea bottom and surface, and includes areas outside Malaysia's territorial waters, and such area's seabed and the surface, which are or will under Malaysian law and in accordance with international law to become an area of which Malaysia has sovereign rights to explore and exploit natural resources, whether living or non-living,
  - b) the term "Sweden" means the Kingdom of Sweden and, when used in a geographical sense, means the territory of Sweden, the Swedish territorial sea and other maritime areas over which Sweden in accordance with international law exercises sovereign rights or jurisdiction,
  - c) the terms "a Contracting State" and "the other Contracting State" mean Malaysia or Sweden, depending on the context,
  - d) "person" includes an individual, a company and any other body,
  - e) "company" means any body corporate or any entity which is treated as a legal person,
  - 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 resident of the other Contracting State,
  - g) "national" means:
    - 1) any individual possessing the nationality of a Contracting State,
    - 2) any legal person or other entity established under the laws in force in a Contracting State,
  - h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State
  - in) "competent authority" means:
    - 1) in Malaysia, the Minister of Finance or his authorized representative, and
    - 2) in Sweden: Minister of Finance, his authorized representative or the authority which is designated as a competent authority for the purposes of this Agreement.
- 2nd Where a Contracting State applies the Agreement at any time shall, unless the context otherwise requires, any term not defined therein shall have the meaning which

it has at that time under the state's laws concerning the taxes to which the Convention applies, and the 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 Convention, the term "resident of a Contracting State" means any person who, under the tax laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other similar nature, and also includes that State, political subdivision, local authorities, public and governmental bodies. This expression includes partnerships and estates only to the extent that the income is taxable in that State in the same manner as the income of a resident, either in hands or of its partners or beneficiaries.

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

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

b) it can not be determined State in which he has his center of vital interests or if he is not in either State has a permanent home available to him, he is deemed to be a resident only of the State where he usually resides,

c) if he has an habitual abode in both States or if he does not reside permanently in any of them, considered to be a resident only of the State in which he is a national,

d) if he is a national of both States or if he is not a citizen of any of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

third Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities shall endeavor to settle the question by mutual agreement.

#### **Article 5**

##### **Permanent establishment**

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

2nd The term "permanent establishment" includes especially:

a) a place of management,

b) 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.

third A building site, a construction, installation or assembly project constitutes a permanent establishment only if it lasts more than twelve months.

4th Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall not include:

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

5th An enterprise of a Contracting State is deemed to have a permanent establishment in the other Contracting State carries out operations consisting of surveillance in the other State for a period exceeding six months in connection with a building site, construction, installation or assembly operations in the other state.

6. If a person who is not an independent status to whom paragraph 7 applies, is acting in a Contracting State on behalf of an enterprise of the other Contracting State, is this company - notwithstanding the provisions of paragraphs 1 and 2 - have a permanent establishment in the first-mentioned State in respect of any activities which that person undertakes for the enterprise, if the person:

- a) has and habitually exercises an authority to conclude contracts in the name, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph, or
- b) hold a merchandise belonging inventories in the first State from which he regularly receives and dispatch orders to the company.

7. Enterprises of a Contracting State is considered 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 independent status, provided that such persons are acting in the ordinary course of business.

8 . The fact that a company which is a resident of a Contracting State controls or is

controlled by a company resident in the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of and for 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.

2nd a) The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property is located, except as provided in b) and c) below to the contrary.

b) The term "immovable property" shall in any case include buildings, accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of or the right to work, mineral deposits, sources and other natural resources.

c) Ships, boats and aircraft shall not be immovable property.

third The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or other use of real property.

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

## **Article 7**

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 enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2nd An enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, provision, unless the provisions of paragraph 3 to the contrary, in each Contracting State to that permanent establishment the profits which it can be assumed that the establishment would have acquired, 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.

third In determining the profits of a permanent establishment there shall be allowed as

deductions expenses, including expenses for executive and general administrative expenses, which would have been deductible if the permanent establishment were an independent enterprise, insofar as the expenditure has rightly attributed to the permanent establishment, whether spending incurred in the State in which the permanent establishment is situated or elsewhere.

4th If the available information is not sufficient for determining which income is attributable to a company's permanent establishment, the provisions of this Article shall not prevent a state that, with the application of domestic law, discretion determine a person's tax liability using the information is available and in accordance with the provisions of this Article.

5th Profits shall be attributed to a permanent establishment by reason of the goods purchase by that permanent establishment or merchandise for the enterprise.

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

7. Included in capital operating income which are dealt with separately in other Articles of this Convention, then the provisions of those articles of the regulations of this article.

## **Article 8**

### Sea and air transport

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

2nd The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

## **Article 9**

### Associated enterprises

#### 1. Where

a) an enterprise of a Contracting State participates directly or indirectly in the management or control of an enterprise of the other Contracting State, or takes part in this company's capital, 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, or takes part in both their capital, observed the following.

Between the two enterprises in their commercial or financial relations made or imposed conditions, 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 that enterprise and taxed accordingly.

2nd 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 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 enterprises had been those which would be made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of taxes levied on the income where that other State considers the adjustment justified. In determining such adjustment, due 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 resident in a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2nd Dividends paid by a company resident in Sweden to a person resident in Malaysia may also be taxed in Sweden according to Swedish law, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 15 per cent of the gross amount. If the beneficial owner is a company (other than a partnership) which holds directly at least 10 percent of the company paying the dividends' voting power is exempt from tax in Sweden.

third Dividends paid by a company resident in Malaysia to a resident of Sweden, who are entitled to the dividend, is exempt from any tax could be levied on dividends in Malaysia in addition to the tax levied on the Company's income or gain.

4th The provisions of paragraphs 2 and 3 shall not affect the company's taxation of the profits out of which dividends are paid.

5th 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 in a company, which under the laws of the State in which the distributing company is resident for tax purposes the same treatment as income from shares.

6. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the dividends is 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, 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 15.

7. Where a company which is a resident of a Contracting State derives income from the other Contracting State, that other State may not tax the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively

connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of income arising in such other State.

## **Article 11**

### **Interest**

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

2nd 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.

third Notwithstanding the provisions of paragraph 2, a Contracting State Government, be exempt from tax in the other Contracting State in respect of interest which the government receives and derived from that other State.

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

a) in Malaysia, the Government of Malaysia and includes:

- 1) state governments,
- 2) Bank Negara Malaysia,
- 3) local authorities,
- 4) public bodies, and
- 5) Export-Import Bank of Malaysia Berhad (EXIM Bank),

b) in Sweden, the Government of Sweden and includes:

- 1) National Bank,
- 2) political subdivisions,
- 3) local authorities,
- 4) public bodies,
- 5) Swedish Export Credit Corporation (SEK), to the extent that the loan has been guaranteed by the Swedish government, and
- 6) Swedish International Development Cooperation Agency (SIDA).

5th The term "interest" as used in this Article means income from any kind of claim, whether secured by mortgage on immovable property or not, and either carrying a right to participate in the debtor or not. In particular, income from securities issued by state and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment is not considered as interest for the purposes of this article.

6. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs independent personal services in that other State from

which the fixed base situated therein, and the debt for 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 15.

7. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. If, 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, and such interest is borne by such permanent establishment or fixed base, interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

8. Where by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, with respect to the claim for which it is paid, exceeds the amount which would have been agreed between the payer and the beneficial owner if such relationship existed, the provisions of this Article shall apply only to the last mentioned amount. In such case, the excess amount under the laws of each Contracting State, due to the other provisions of this Agreement.

## **Article 12**

### **Royalty**

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

2nd Royalties 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 royalties is a resident of the other Contracting State, the tax so charged shall not exceed 8 percent of gross royalties.

third The term "royalties" 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.

4th The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties is 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 where 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 15.

5th Royalties shall be deemed to arise in a Contracting State when the payer is a

resident of that State. If, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, is considered 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 of the royalties, or between both of them and some other person, with respect 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 of the royalties, if such relationship existed, the provisions of this Article shall apply only to the last mentioned amount. In such case, the excess amount under the laws of each Contracting State, due to the other provisions of this Agreement.

### **Article 13**

#### Fees for technical services

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

2nd Fees for technical services may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the person entitled to the fees for technical services is a resident of the other Contracting State the tax so charged shall not exceed 8 percent of the gross amount of .

3rd The term "fees for technical services" as used in this Article means payments to a person, unless it is made to an employee of the person making the payments for services of technical or managerial nature or for consulting services.

4th The provisions of paragraphs 1 and 2 shall not apply if the person entitled to the fees for technical services is a resident of a Contracting State, carries on business in the other Contracting State in which fees for technical services arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base, as well as fees for technical services is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15.

5th Fees for technical services deemed to arise in a Contracting State when the payer is a resident of that State. If, however, the person paying the fees for technical services, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the obligation to pay fees for technical services was incurred, and fees for technical services are borne the permanent establishment or fixed base, considered fees for technical services 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 person entitled

to the fees for technical services or between both of them and some other person, with respect to the services for which fees for technical services are paid, exceeds the amount which would have been agreed upon by the payer and the person entitled to the benefit if such relationship existed, the provisions of this Article shall apply only to the last mentioned amount. In such case, the excess amount under the laws of each Contracting State, due to the other provisions of this Agreement.

#### **Article 14**

##### 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, or from the alienation of shares of a company whose principal assets consist of such property may be taxed in that other State.

2nd 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 for the purpose of performing independent personal services, with resident of a Contracting State has in the other Contracting State may be taxed in that other State. The same applies to profits from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base.

third Gains derived by a resident 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 State.

4th 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.

5th Gains from the alienation of any property derived by an individual who was resident in a Contracting State and received a resident of the other Contracting State may - notwithstanding the provisions of paragraph 4 - taxed in the first-mentioned State if the alienation of property occurs at any time that occurs during the ten years following immediately after the person ceased to be a resident of the first-mentioned State.

#### **Article 15**

##### Independent personal

1. Income derived by a resident of a Contracting State from the performance of professional services or other independent activities shall be taxable only in that State. The income may be taxed in the other Contracting State if:

- a) he is in the other Contracting State has a fixed base regularly available to him in order to practice, but only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State, or
- b) he is present in the other Contracting State for a period or periods amounting to or exceeding 183 days in any twelve month period commencing or ending in the calendar year in question, but only so much of the income as is attributable to the activities of this other State may be taxed in that other State.

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

## **Article 16**

### **Individual business**

1. Subject to the provisions of Articles 17, 19, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of employment only in that State unless the employment is exercised in the other Contracting State . If services are rendered in that other State, such remuneration as is derived therefrom may be taxed there.

2nd 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, only in the first-mentioned State if:

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

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

## **Article 17**

### **Directors' fees**

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

## **Article 18**

### Artistes and sportsmen

1. Notwithstanding the provisions of Articles 15 and 16, income derived by a resident of a Contracting State from his personal activities in the other Contracting State as an entertainer, such as theater, motion picture, radio or television artiste, or a musician, or capacity may be taxed in that other State.

2nd Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 15 and 16, be taxed in the Contracting State in which the artist or sportsman are exercised.

third 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, directly or indirectly supported wholly or almost wholly from the public funds of the other Contracting State, a political subdivision, local authority or statutory body.

### **Article 19**

#### Pensions, annuities and similar payments

1. Pensions and other similar remuneration, disbursements under the social security legislation and annuities arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in the first-mentioned Contracting State.

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

### **Article 20**

#### Government service

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

b) 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 individual is a resident of that other State and

1) is a national of that other State, or

2) is not a resident of that other State solely for the purpose of rendering the services.

2nd The provisions of Articles 16 and 17 shall apply to salaries, wages and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision, local authority or statutory body.

## **Article 21**

### **Students and trainees**

A natural person who is a resident of a Contracting State immediately before visiting the other Contracting State and who reside temporarily in the other State solely as

- a) a student at a recognized university, school or other similar recognized educational institution in that other state,

- b) the trade or business trainee, or

- c) The recipient of the scholarship, maintenance intended to cover specific expenses or award for the primary purpose of study, research or training, received from the government of either State or from a scientific or religious organization or an educational or charitable organization or under a technical assistance program entered into by the Government of a State, shall be exempt from tax in the other State in respect of

- 1) compensation from abroad who intend to cover the cost of his maintenance, education, study, research or training,

- 2) the previously stated scholarship, maintenance intended to cover specific expenses or premium, and

- 3) compensation for work performed in the other State that does not exceed 2,500 U.S. dollars per calendar year if the services rendered in connection with study, research or training or are necessary for his livelihood. The said amount shall include an allowance for the calendar year in question.

## **Article 22**

### **Other income**

Income derived by a resident of a Contracting State which are not expressly dealt with in the foregoing Articles of this Convention shall be taxable only in that Contracting State. If such income arising in the other Contracting State may, however, also be taxed in that other State.

## **Article 23**

### **Elimination of double taxation**

1. In the case of Malaysia, double taxation shall be avoided as follows:

With regard to the Malaysian laws permitting the tax paid in a country other than Malaysia credit against Malaysian tax, shall be a resident of Malaysia who received income from Sweden granted relief for the Swedish tax paid under Swedish law and in accordance with the provisions of this Agreement by the Malaysian tax paid on the income. Where such income is a dividend paid by a company resident in Sweden to a

company resident in Malaysia which owns at least 10 percent of the voting power in the company paying the dividend, the credit shall take into account the Swedish tax to the distributing company paid for Income of which the dividends are paid. The credit shall not, however, exceed that part of the Malaysian tax, as computed before the deduction is given, which is attributable to such income.

2nd In the case of Sweden, double taxation shall be avoided as follows:

a) Where a resident of Sweden derives income which under the laws of Malaysia and in accordance with the provisions of this Agreement may be taxed in Malaysia must Sweden - having regard to the provisions of Swedish legislation concerning credit for foreign tax (as amended or supplemented in future can get by altered without changing the general principle hereof) - from the Swedish tax on such income, an amount equal to the Malaysian tax paid on the income.

b) Where a resident of Sweden derives income which, in accordance with the provisions of this Agreement shall be taxable only in Malaysia, Sweden - in the determination of Swedish progressive tax - into account the income that is taxed only in Malaysia.

c) Notwithstanding the provisions of subparagraph) of this paragraph, dividends paid by companies resident in Malaysia to a company resident in Sweden exempt from Swedish tax under the provisions of Swedish law on tax exemption for dividends received by Swedish company from companies abroad.

d) If a Swedish company has a permanent establishment in Malaysia for the purposes of a) of this paragraph, the term "Malaysian tax paid" deemed to include Malaysian tax on such permanent establishment income that would have been payable but not paid or paid with lower amount because of limited provisions on incentives in the legislation in Malaysia which is intended to promote economic development to the extent that such tax exemptions or reductions granted for profits from industrial or manufacturing activity or from agriculture, forestry, fisheries or tourism (including restaurants and hotels), provided that such activities are practiced in Malaysia. In applying c) of this paragraph, a tax of 15 percent on a Swedish tax base shall be considered to have been paid for such activities under the conditions stated in the previous sentence even if the tax actually paid in Malaysia is less than 15 percent.

e) The provisions d) shall apply only during the first ten years of this Agreement. This period may be extended by mutual agreement between the competent authorities.

## **Article 24**

### **Prohibition of discrimination**

1. Nationals of a Contracting State shall not 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. Notwithstanding the provisions of Article 1 shall apply this provision also apply to persons who are not domiciled in a

Contracting State or of both Contracting States.

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

third Except where the provisions of Article 9, paragraph 1, Article 11, paragraph 8, Article 12, paragraph 6 or Article 13, paragraph 6 apply, interest, royalties, fees for technical services and other disbursements paid by an enterprise of a Contracting State to a resident in the other Contracting State deductible in determining the taxable profits of such companies on the same basis as paid to a resident of the first-mentioned State. This does not apply if a Contracting State's internal law provides for tax to be withheld at source, and this obligation is not fulfilled.

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

5th This Article shall not impose upon

a) a Contracting State to grant to individuals who are residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to residents of their own state,

b) Malaysia to grant to Swedish citizens who are not resident in Malaysia, the personal allowances, exemptions or reductions at the time of signing of this Agreement is legally available only to Malaysian citizens who are not resident in Malaysia.

6. The term "taxation" means in this article, the taxes to which the Convention applies.

## **Article 25**

### **Mutual Agreement Procedure**

1. If a person believes that a Contracting State or both Contracting States made arrangements for him in result or will result in taxation not in accordance with the provisions of this Agreement, he may, without prejudice to his right to avail themselves of the remedies provided in these States' domestic legal system, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under Article 24, paragraph 1, of the Contracting State of which he is a national. The case must be presented within three years from the time the person first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2nd If the competent authority finds the complaint justified and if it is not itself able to

arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State for the purpose of avoiding taxation not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic laws of the Contracting States.

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

4th The competent authorities of the Contracting States may communicate directly with each other to reach an agreement within the meaning of the preceding paragraphs.

## **Article 26**

### Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary to implement 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. The exchange of information is not restricted by Article 1. Notices received 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) sets, or collection of the taxes covered by the Agreement or prosecution or appeals regarding these taxes. 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.

2nd The provisions of paragraph 1 be construed so as to impose on a Contracting State the

- a) to carry out administrative measures at variance with the laws or administrative practice of that Contracting State or of the other Contracting State,
- b) to supply information which is not obtainable under the laws or in the normal administrative practice of that Contracting State or of the other Contracting State,
- c) leave 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).

## **Article 27**

### Limitation of benefits

1. If income due to provision of this Agreement can not be fully taxed in a Contracting State and, under the laws of the other Contracting State, a person, in respect of that

income, are taxed on the portion of income that is transmitted or received on this other State and not for the revenue entire amount, any such restriction of the right to tax in the first-mentioned Contracting State shall apply only to that part of the income as is remitted to or received in that other Contracting State.

2nd Provisions of this Agreement that permits exemption or reduction of tax shall not apply to persons who are eligible for any tax benefit by:

- a) legislation in any of the states mentioned in the notes exchanged between the States, or
- b) any substantially similar tax legislation.

## **Article 28**

### **Members of diplomatic missions and consular posts**

The provisions of this Agreement shall affect the fiscal privileges which, under international law or under the provisions of special agreements of members of diplomatic missions or consular posts.

## **Article 29**

### **Entry into force**

1. The Contracting States shall notify each other that the procedures required by the law of the State concerned to this Agreement shall enter into force.

2nd The Agreement shall enter into force on the thirtieth day after the date of the later of these notifications are received and applied:

a) in Malaysia:

1) on another Malaysian tax than petroleum income tax, to tax chargeable for any tax year beginning 1 January of the calendar year next following the year in which the Agreement enters into force or,

2) for the petroleum income tax, to tax chargeable for any tax year beginning January 1 of the second calendar year following the year in which the Agreement enters into force or,

b) in Sweden:

1) in respect of taxes withheld at source, to income derived on January 1 calendar year next following the year in which the Agreement enters into force or,

2) in respect of other taxes on income, to taxes chargeable for any tax year beginning on 1 January of the calendar year immediately following that in which the Agreement enters into force.

third Agreement between the Government of Malaysia and the Government of Sweden for the avoidance of double taxation and prevention of fiscal evasion regarding income, signed at Kuala Lumpur November 21, 1970, is repealed and its

provisions shall no longer apply from the date that this Agreement shall be applicable subject to paragraph 2 of this Article.

### **Article 30**

#### **Cessation**

This Agreement shall remain in force until further notice. Either Contracting State may terminate the Convention in writing terminate this Agreement by notifying the other Contracting State, the other by 30 June in any calendar year that follows a period of five years from the date on which the Agreement enters into force. In such event this Agreement shall cease to apply

a) in Malaysia:

1) on another Malaysian tax than petroleum income tax, to tax chargeable for any tax year beginning 1 January of the calendar year next following the year in which the notice is given,

2) for the petroleum income tax, to tax chargeable for any tax year beginning 1 January of the second calendar year following the year in which the notice is given,

b) in Sweden:

1) in respect of taxes withheld at source, to income derived on January 1 calendar year next following the year in which the notice is given,

2) in respect of other taxes on income, to taxes chargeable for any tax year beginning on 1 January of the calendar year next following that year in which the notice is given.

In witness whereof the undersigned, being duly authorized thereto, have signed this Agreement.

Done at Stockholm on 12 March 2002 in duplicate in Malay, English and Swedish languages, each text being equally authentic. In the event that a dispute arises concerning the interpretation or application of this Agreement, the English text shall prevail.

**For the Government of Sweden**

**Leif Pagrotsky**

**For the Government of Malaysia**

**Seri Rafidah Aziz**

#### **PROTOCOL**

1. At the signing of the Agreement between the Government of Sweden and the Government of Malaysia for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income, the two governments have agreed that the

following provisions shall form an integral part thereof.

2nd It is agreed that:

a) the provisions of Article 8, paragraph 1 shall apply to income derived by the air transport consortium Scandinavian Airlines System (SAS), but only in respect of the portion of income that corresponds to the participation held in that consortium by SAS Sweden AB, the Swedish partner of Scandinavian Airlines,

b) the provisions of Article 14, paragraph 3 shall apply in respect of profits derived by the air transport consortium Scandinavian Airlines System (SAS), but only in respect of the portion of the gain that corresponds to the participation held in that consortium by SAS Sweden AB, the Swedish partner of Scandinavian Airlines, and

c) when the provisions of Article 16, paragraph 3, the income derived by a resident of Sweden derives an employment exercised aboard an aircraft operated in international traffic by the air transport consortium Scandinavian Airlines System (SAS) shall be taxable only in Sweden.

In witness whereof the undersigned, being duly authorized thereto, have signed this Protocol.

Done at Stockholm on 12 March 2002 in duplicate in Malay, English and Swedish languages, each text being equally authentic. In the event that a dispute arises concerning the interpretation or application of the Protocol, the English text shall prevail.

**For the Government of Sweden**

**Leif Pagrotsky**

**For the Government of Malaysia**

**Seri Rafidah Aziz**

**LETTERS**

**Sweden's note on Article 27, paragraph 2**

I have the honor to refer to the Agreement between the Government of the Kingdom of Sweden and the Government of Malaysia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income Which has been signed today and to Propose on Behalf of the Government of the Kingdom of Sweden thatwith reference to paragraph 2 of Article 27:

The provisions of this Agreement Shall not apply to persons carrying on offshore business activity under the Labuan Offshore Business Activity Tax Act 1990 (as amended).

"Offshore business activity" means an offshore business activity as defined under Section 2 (1) of the Labuan Offshore Business Activity Tax Act 1990 (as amended).

If the foregoing Proposal is acceptable to the Government of Malaysia, I have the honor to suggest That the present Note and Your Excellency's reply to That Effect Should be Regarded As constituting an agreement That Shall form an integral part of the Agreement for the avoidance of double taxation in this matter, Which Shall enter into force at the same time as the entry into force of this Agreement.

**For the Government of the Kingdom of Sweden**

**Leif Pagrotsky**

**Malaysia's note on Article 27, paragraph 2**

I have the honor to acknowledge receipt of Your Excellency's Note of today Which reads as follows:

"I have the honor to refer to the Agreement between the Government of the Kingdom of Sweden and the Government of Malaysia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income Which has been signed today and to Propose on Behalf of the Government of the Kingdom of Sweden thatwith reference to paragraph 2 of Article 27:

The provisions of this Agreement Shall not apply to persons carrying on offshore business activity under the Labuan Offshore Business Activity Tax Act 1990 (as amended).

"Offshore business activity" means an offshore business activity as defined under Section 2 (1) of the Labuan Offshore Business Activity Tax Act 1990 (as amended).

If the foregoing Proposal is acceptable to the Government of Malaysia, I have the honor to suggest That the present Note and Your Excellency's reply to That Effect Should be Regarded As constituting an agreement That Shall form an integral part of the Agreement for the avoidance of double taxation in this matter, Which Shall enter into force at the same time as the entry into force of this Agreement. "

The above Proposal being acceptable to the Government of Malaysia, I have the honor to confirm thatyour Excellency's Note and this reply Shall ask Regarded As constituting an agreement That Shall form an integral part of the Agreement for the avoidance of double taxation in this matter, Which Shall enter into force at the same time as the entry into force of this Agreement.

**For the Government of Malaysia**

**Seri Rafidah Aziz**

**Agreement between the Government of the Kingdom of Sweden and the Government of Malaysia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income**

The Government of the Kingdom of Sweden and the Government of Malaysia, 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**

### **Persons Covered**

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

## **Article 2**

### Taxes covered

1. The Existing 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 Sweden:

(I) the national income tax (state income tax);

(Ii) the withholding tax on Dividends (withholding tax);

(Iii) the income tax on non-residents (the income tax on non-residents);

(Iv) the income tax on non-residents artistes and athletes (the income tax on non-resident artists and others); and

(V) the municipal income tax (the municipal income tax);

(Hereinafter Referred to as "Swedish tax").

second This Agreement Shall apply to any overpriced 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 eachother of important changes whichhave been made in Their respectively taxation laws.

## **Article 3**

### General definitions

1. For the Purposes of this Agreement, Unless the context otherwise stay connected:

(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 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 of Which Malaysia has sovereign rights for the Purposes of exploring and Exploiting the natural resources, Whether living or non-living;

(B) the term "Sweden" means the Kingdom of Sweden and, When used in a geographical sense, includes the national territory, the territorial sea of Sweden as well as other maritime areas of Which Sweden in accordance with international law exercises sovereign rights or jurisdiction;

(C) the terms "a Contracting State" and "the other Contracting State" mean Malaysia or Sweden as the context stay connected;

(D) the term "person" includes an individual, a company and any other body of persons;

(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 working on by a resident of a Contracting State and an enterprise Carried on by a resident of the other Contracting State;

(G) the term "national" means:

(I) any individual posse sing the citizenship of a Contracting State;

(Ii) any legal person, partnership or association derivative wing its status As such from the laws in force in a Contracting State;

(H) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except When the ship or aircraft is operated Solely between places in the other Contracting State;

(I) the term "Competent authority" means:

(I) in the case of Malaysia, the Minister of Finance or his Authorised representative; and

(Ii) in the case of Sweden, the Minister of Finance, his Authorised representative or the authority Which is designated as a Competent authority for the purpose of this Agreement.

2nd As regards the application of this Agreement at any time by a Contracting State, any term not defined therein Shall, Unless the context otherwise stay connected, 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 any person who, under the tax laws of That State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a

similar nature, and also includes That State and a political subdivision, a local authority and any statutory body or governmental agency thereof. However, in the case of a partnership or estate the term Applies only to the extents That the income derived by Such partnership or estate is subject to tax in That State as the income of a resident, either in its hands or in the hands of its suppliers or Beneficiaries.

second Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status Shall be Determined as follows:

(A) he Shall be deemed to be a resident only of the State In which he has a permanent home available to him; if he has a permanent home available to him in both States, he Shall be deemed to be a resident only of the State with Which his personal and economic relations are closer (center of vital interests);

(B) if the State In which he has his center of vital interests can not be determined, or if he has not a permanent home available to him in either State, he Shall be deemed to be a resident only of the State in Which he has An habitual abode;

(C) if he has an habitual abode in both States or in neither of them, he Shall be deemed to be a resident only of the State Of which he is a national;

(D) if he is a national of both States or of neither of them, The Competent Authorities of the Contracting States Shall settle the question by mutual agreement.

third Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, The Competent Authorities of the Contracting States Shall endeavor to 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 working on.

2nd The term "permanent establishment" includes especially:

(A) a place of management;

(B) a branch;

(C) an office;

(D) a factory;

(E) a workshop; and

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

third A building site or construction, installation or assembly project constitutes a permanent establishment only if it lasts more than 12 months.

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

(A) the use of facilities Solely for the purpose of storage, display or delivery of goods or merchandise Belonging to the enterprise;

- (B) the maintenance of a stock of goods or merchandise Belonging to the enterprise Solely for the purpose of storage, display or delivery;
- (C) the maintenance of a stock of goods or merchandise Belonging to the enterprise Solely for the purpose of processing by another enterprise;
- (D) the maintenance of a fixed place of business Solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;
- (E) the maintenance of a fixed place of business Solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- (F) the maintenance of a fixed place of business Solely for any combination of activities MENTIONED in sub-Paragraphs (a) to (e), provided That the overall activity of the fixed place of business resulting things from this combination is of a preparatory or Auxiliary character.

5th 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 six months in connection with a building site or a construction, installation or assembly project Which is being under taken in That other State.

6. Notwithstanding the provisions of Paragraphs 1 and 2, where a person - other than an agent of an independent status To whom paragraph 7 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 takes over for the enterprise, if Such a person:

- (A) has and habitually exercises in That State an authority to the conclude contracts in the name of the enterprise, Unless the activities of Such a person are limited to Those MENTIONED in paragraph 4 which, if Exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of That paragraph; or
- (B) Maintains in the first-MENTIONED State a stock of goods or merchandise Belonging to the enterprise from Which he Regularly Receives and fills orders on Behalf of the enterprise.

7. An enterprise of a Contracting State Shall not be deemed to have a permanent establishment in the other Contracting State Merely Because it carries on business in That other State through a broker, general commission agent or any other agent of an independent status, provided That Such person are acting in the ordinary course of their business.

8. 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.

2nd (A) The term "Immovable property" shall, subject to the provisions of subparagraphs (b) and (c) have the meaning Which it has under the law of the Contracting State in Which the property in question is situated.

(B) The term "Immovable property" shall in any case include buildings, property accessory to Immovable property, livestock and equipment used in agriculture and forestry, rights to Which the provisions of general law respecting landed property apply, Usufruct of Immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources.

(C) Ships, boats and aircraft Shall not be Regarded As Immovable property.

third The provisions of paragraph 1 Shall apply to income derived from the direct use, letting, or use in any other form of Immovable property.

4th The provisions of Paragraphs 1 and 3 Shall overpriced apply to the income from Immovable property of an enterprise and to income from Immovable property used for the performance of independent personnel services.

## Article 7

### Business profits

1. The profits of an enterprise of a Contracting State Shall be taxable only in That State Unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise May be Taxed in the other State but only so much of them as is attributable to a permanent establishment That.

2nd 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 the permanent establishment That 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.

third 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.

4th If the information available is inadequate to DETERMINE the profits to be attributed to a 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, provided That the law Shall be applied, so far as the information available Permits, in accordance with the principles of this Article.

5th 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. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic Shall be taxable only in That State.

2nd The provisions of paragraph 1 Shall overpriced apply to the profits from the participation in a pool, a joint business or an international operating agency.

## **Article 9**

### Associated enterprises

1. Elsewhere -

(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 person Interact 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 different 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.

second 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 not have been made between independent enterprises, then That other State Shall make an adjustment to the Appropriate 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.
- 2nd Dividends paid by a company Which is a resident of Sweden to a resident of Malaysia May overpriced ask Taxed in Sweden According To English laws, but if the recipient is the beneficial owner of the Dividends the tax so charged Shall not Exceed 15 per cent of the Gross Amount of the Dividends. Elsewhere, however, the beneficial owner of the Dividends is a company (other than a partnership) which holds directly at least 10 per cent of the voting power of the company paying the Dividends, the Dividends Shall be exempt from tax in Sweden.
- third Dividends paid by a company Which is a resident of Malaysia to a resident of Sweden who is the beneficial owner thereof Shall be exempt from any tax in Malaysia Which is chargeable on Dividends in addition to the tax chargeable in respect of income or profits of the company .
- 4th The provisions of Paragraphs 2 and 3 Shall not Affect the taxation of the company in respect of the profits out of the Which Dividends are paid.
- 5th 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.
6. The provisions of Paragraphs 1, 2 and 3 Shall not apply if the beneficial owner of the Dividends, being a resident of a Contracting State, carries on business in the other Contracting State, Of which the company paying the Dividends is a resident, through a permanent establishment situated therein, or performs in That other State independent personnel services from a fixed base situated therein, and the holding in respect of Which the Dividends are paid ice Effectively connected with Such permanent establishment or fixed base. In Such case the provisions of Article 7 or Article 15, as the case May be, Shall apply.
7. 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, except insofar as such Dividends are paid to a resident of That other State or insofar as the holding in respect of Which the Dividends are paid is Effectively connected with a permanent establishment or a fixed base situated in. That other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the Dividends paid or the undistributed profits Consist Wholly or partly of income or profits Arising in Such other State.

## **Article 11**

### **Interest**

1. Interest Arising in a Contracting State and paid to a resident of the other Contracting State May be Taxed in That other State.

2nd However, Such interest May overpriced ask 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.

third Notwithstanding the provisions of paragraph 2, 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.

4th For the Purposes of paragraph 3, 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 (EXIM Bank);

(B) in the case of Sweden means the Government of Sweden and Shall include:

(I) the Central Bank of Sweden;

(Ii) the political Subdivisions;

(Iii) the Local Authorities;

(Iv) the statutory bodies;

(V) the Swedish Export Credit Corporation (SEK), to the extents That the loan is guaranteed by the Government of Sweden; and

(Vi) the Swedish International Development Authority (SIDA).

5th The term "interest" as used in this Article means income from debt-claims of every kind, Whether or not secured by mortgage and Whether or not carrying a right to Participate in the debtor's profits, and In particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to Such securities, bonds or debentures. Penalty charges for late payment Shall not be Regarded As no rest for the purpose of this Article.

6. The provisions of Paragraphs 1, 2 and 3 Shall not apply if the beneficial owner of

the interest, being a resident of a Contracting State, carries on business in the other Contracting State in Which the interest Arises, through a permanent establishment situated therein, or performs in That other State independent personnel 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 15, as the case May be, Shall apply.

7. Interest Shall be deemed to linearization in a Contracting State When The payer is a resident of That State. Elsewhere, 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 a permanent establishment Such or fixed base, then Such interest Shall be deemed to linearization in the State In which the permanent establishment or fixed base is situated.

8. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the Amount of the interest, having regard to the debt-claim for Which it is paid, Exceeds the Amount Which wouldhave 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 remainings 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.

2nd However, Such royalties May overpriced ask Taxed in the Contracting State in Which They linearization, 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.

third 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.

4th 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 linearization, through a permanent establishment situated therein, or performs in That other State independent personnel

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 a case the provisions of Article 7 or Article 15, as the case May be, Shall apply.

5th Royalties Shall be deemed to linearization in a Contracting State When The payer is a resident of That State. Elsewhere, 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 liability to pay the royalties was Incurred, and such royalties are borne by the permanent establishment Such or fixed base, then Such royalties Shall be deemed to linearization in the State In which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the Amount of the royalties, having regard to the use, right or information for Which They are underpaid, Exceeds the Amount Which wouldhave 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 remainings taxable According To the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

### **Article 13**

#### Fees for technical services

1. Fees for technical services Arising in a Contracting State and paid to a resident of the other Contracting State May be Taxed in That other State.

2nd However, Such fees for technical services May overpriced ask Taxed in the Contracting State in Which They linearization and According To the laws of That State, but where the beneficial owner of the fees for technical services is a resident of the other Contracting State the tax so Charged Shall not Exceed 8 per cent of the Gross Amount of the fees for technical services.

third The term "fees for technical services" 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.

4th The provisions of Paragraphs 1 and 2 Shall not apply if the beneficial owner of the fees for technical services, being a resident of a Contracting State, carries on business in the other Contracting State in Which the fees for technical services linearization through a permanent establishment situated therein, or performs in That other State independent personnel services from a fixed base situated therein, and the fees for technical services are Effectively connected with Such permanent establishment or fixed base. In Such a case the provisions of Article 7 or Article 15, as the case May be, Shall apply.

5th Fees for technical services Shall be deemed to linearization in a Contracting State

When The payer is a resident of That State. Elsewhere, however, the person paying the fees for technical services, Whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with Which the liability to pay the fees for technical services was Incurred, and such fees for technical services are borne by Such permanent establishment or fixed base, then Such fees for technical services Shall be deemed to linearization in the Contracting State In which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the Amount of the fees for technical services having regard to the services for Which They are underpaid, Exceeds the Amount Which wouldhave 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 remainings taxable According To, the law of each Contracting State, due regard being had to the other provisions of this Agreement.

#### **Article 14**

##### **Capital gains**

1. Gains 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, or from the alienation of shares in a company the assets of Which Consist of Principally Such property, may be Taxed That into other state.

second 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 personnel services, including Such gains from the alienation of Such a permanent establishment (alone or with the whole enterprise) or of Such fixed base, may be Taxed in That other State.

third Gains derived by a resident of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of ships or aircraft Such, Shall be taxable only in That State.

4th Gains from the alienation of any property other thanthat Referred to in Paragraphs 1, 2 and 3, Shall be taxable only in the Contracting State Of which the alienator is a resident.

5th Notwithstanding the provisions of paragraph 4, gains from the alienation of any property derived by an individual who has been a resident of a Contracting State and who has've become a resident of the other Contracting State, may be Taxed in the first-MENTIONED State if the alienation of the property Occurs at any time During the ten years next Following the date on Which the individual has Ceased to be a resident of the first-MENTIONED State.

## **Article 15**

### Independent personnel services

1. Income derived by 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 except In the following circumstances should, When Such income overpriced May be Taxed in the other Contracting State:

(A) if he has a fixed base Regularly available to him in the other Contracting State for the purpose of performing his activities; In That case, only so much of the income as is attributable to That uncap base May be Taxed in That other Contracting State; or  
(B) if his stay in the other Contracting State is for a period or periods amounting to or Exceeding in the aggregate 183 days in any twelve month period commencing or ending in the calendar year Concerned; In That case, only so much of the income as is derived from his activities Performed in That other State May be Taxed in That other State.

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

## **Article 16**

### Dependent personnel services

1. Subject to the provisions of Articles 17, 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.

2nd 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 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 not a resident of the other State; and

(C) the Remuneration is not borne by a permanent establishment or a fixed base Which the employer has in the other State.

third 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 May be Taxed in That State.

## **Article 17**

### Directors' fees

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company Which is a resident of the other Contracting State, may be Taxed in That other State.

## **Article 18**

### Artistes and sportsmen

1. Notwithstanding the provisions of Articles 15 and 16, income derived by a resident of a Contracting State as an artiste, Such as a theater, motion picture, radio or television artiste, or a musician, or as a sportsman, from his staff activities As such Exercised in the other Contracting State, may be Taxed in That other State.

2nd Where income in respect of staff activities Exercised by an artiste or a sportsman in his capacity As such accrues not to the artiste or sportsman himself but to another person, That income may, notwithstanding the provisions of Articles 7, 15 and 16, be Taxed into the Contracting State in Which the activities of the artiste or sportsman are Exercised.

third 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 almost Wholly from the public funds of the other Contracting State, a political subdivision , a local authority or a statutory body thereof.

## **Article 19**

### Pensions, annuities and similar payments

1. Pension and other similar Remuneration, disbursement under the Social Security legislation and annuities Arising in a Contracting State and paid to a resident of the other Contracting State May be Taxed in the first-MENTIONED Contracting State.

2nd 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 bond to make the payments in return for adequate and full consideration in money or money's worth.

## **Article 20**

### 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 an individual in respect of services rendered to That State or political

subdivision or 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 individual is a resident of That other State who:

(I) is a national of That other State, or

(Ii) fired've become a resident of That other State Solely for the purpose of rendering the services.

2nd The provisions of Articles 16 and 17 Shall apply to Salaries, wages and other similar Remuneration in respect of services rendered in connection with a business carried working on by a Contracting State or a political subdivision or a local authority or a statutory body thereof.

## **Article 21**

### **Students and trainees**

An individual who is a resident of a Contracting State time 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 Azimut university, college, school or other similar educational institution in the Azimut That other State;

(B) as a business or technical apprentice; or

(C) as a recipient of a grant, allowances to the comp sate for specified Expenses 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 organization or under a technical assistance program entered into by the Government of either State, Shall be exempt from tax in That other State on:

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

(Ii) the Amount of Such grant, allowances to the comp sate for specified Expenses or award; and

(Iii) any Remuneration Note Exceeding 2,500 U.S. dollars per annum in respect of services in That other State provided the services are Performed in connection with his study, research or training or are Necessary for the Purposes of his maintenance. The Amount Stated above Shall include the personnel allowance for the calendar year in question.

## **Article 22**

### **Other income**

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 overpriced ask Taxed That into other state.

### **Article 23**

#### Elimination of double taxation

1. In the case of Malaysia, double taxation Shall be avoided as follows:

Subject to the laws of Malaysia Regarding the allowance as a credit against Malaysian tax of tax payable in any country other than Malaysia, the Swedish tax payable under the laws of Sweden and in accordance with this Agreement by a resident of Malaysia in respect of income derived from Sweden 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 Sweden 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 accountable Swedish tax payable by That company in respect of its income out Of which the dividend is paid. The credit Shall note, however, Exceed That part of the Malaysian tax, as computed before the credit is given, Which is Appropriate to Such item of income.

2nd In the case of Sweden, double taxation Shall be avoided as follows:

(A) Where a resident of Sweden DERIVES income Which under the laws of Malaysia and in accordance with the provisions of this Agreement May be Taxed in Malaysia, Sweden Shall allow - subject to the provisions of the laws of Sweden Concerning credit for foreign tax ( as it May be amended from time to time without changing the general principle hereof) - as a deduction from the tax on Such income, an Amount equal to the Malaysian tax paid in respect of Such income.

(B) Where a resident of Sweden DERIVES income Which, in accordance with the provisions of this Agreement, Shall be taxable only in Malaysia, Sweden may, When Determining the graduated rate of Swedish tax, take into account the income Which Shall be taxable only in Malaysia.

(C) Notwithstanding the provisions of sub-paragraph (a) of this paragraph, Dividends paid by a company Which is a resident of Malaysia to a company Which is a resident of Sweden Shall be exempt from Swedish tax According To the provisions of English law governing the exemption of tax on Dividends paid to Swedish companies by companies abroad.

(D) For the Purposes of sub-paragraph (a) of this paragraph, When a Swedish company has a permanent establishment in Malaysia, the term "Malaysian tax paid" shall be deemed to include the Malaysian tax on profits attributable to Such permanent establishment Which would not have been paid but for any time-limited exemption or reduction of tax Granted under the incentive provisions contained in the laws of Malaysia designed to the promote economic development to the extents That

Such exemption or reduction is Granted for profits from industrial or manufacturing activities or from the agriculture, forestry, fishing or tourism sectors # (including restaurants and hotels) provided That the activities havebeen possible carried out in Malaysia. For the Purposes of sub-paragraph (c) of this paragraph a tax of 15 per cent calculated on a Swedish tax base Shall be Considered to havebeen paid for Such activities and for Those conditions MENTIONED in the previous sentence even if the tax actually paid in Malaysia is less than 15 per cent.

(E) The provisions of sub-paragraph (d) Shall apply only for the first ten years During Which this Agreement is Effective. This period May be extended by a mutual agreement between the Competent Authorities.

## 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 State in the same circumstances should are or May be subjected . This commission Shall notwithstanding the provisions of Article 1, overpriced apply to persons who are not residents of one or both of the Contracting States.

2nd The taxation on a permanent establishment Which an enterprise of a Contracting State has in the other Contracting State Shall not be less favorably levied in That other State than the taxation levied on enterprises of That other State carrying on the same activities.

third Except where the provisions of paragraph 1 of Article 9, paragraph 8 of Article 11, paragraph 6 of Article 12 and paragraph 6 of Article 13 apply, interest, royalties, fees for technical services and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State Shall, for the Purpose of Determining the taxable profits of Such enterprise, be deductible under the same conditions as if They had been paid to a resident of the first-MENTIONED State. When, however, the domestic laws of a Contracting State providesprofessional That Shall a tax be withheld at source and this bond has not been Fulfilled the aforesaid requirements May be set aside.

4th 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.

5th 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 personnel allowances, reliefs and Reductions for tax Purposes

on account of civil status or family responsibilities Which it grants to its own residents;

(B) Malaysia to grant to nationals of Sweden not resident in Malaysia Those personnel allowances, reliefs and Reductions for tax Purposes Which are by law available on the date of signature of this Agreement only to nationals of Malaysia who are not resident in Malaysia.

6 . In this Article, the term "taxation" means taxes to Which this Agreement Applies.

## **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 domestic law of Those States, gift his case to the Competent authority of the Contracting State Of which he is a resident or, if his case comes under paragraph 1 of Article 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 objects in taxation not in accordance with the provisions of this Agreement.

2nd The Competent authority Shall endeavor, if the objection Appears to it to be Justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the Competent authority of the other Contracting State, with a view to the avoidance of taxation Which is not in accordance with this Agreement. Any agreement REACHED Shall be Implemented notwithstanding any time limits in the domestic law of the Contracting States.

third The Competent Authorities of the Contracting States Shall endeavor to resolve by mutual agreement any Difficulties or Doubts Arising as to the interpretation or application of this Agreement. They May overpriced consult together for the elimination of double taxation in cases not provided for in this Agreement.

4th The Competent Authorities of the Contracting States May Communicate with eachother Directly for the Purposes of Reaching an agreement in the sense of the preceding Paragraphs.

## **Article 26**

### Exchange of information

1. The Competent Authorities of the Contracting States Shall exchange Such information as incidental charges for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States Concerning taxes covered by the Agreement insofar as the taxation there under is not Contrary to the Agreement. The exchange of information is not restricted by Article 1. Any information received by a Contracting State Shall be treated as secret in the same Mannerism 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, or the determination of appeals in relation to, the taxes covered by the Agreement. Such person or Authorities Shall use the information only for Such Purposes. They May disc lose the information in public court proceedings or in judicial decisions'.

2nd In no case Shall the provisions of paragraph 1 be construed so as to Impose on a Contracting State the bond:

- (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 are not obtainable under the laws or in the normal course of the administration of That or of the other Contracting State;
- (C) to supply information Which disc would lose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of Which would ask Contrary to public policy.

## **Article 27**

### **Limitation of relief**

1. Where under any commission of this Agreement any income is relieved from tax in a Contracting State and, under the law in force in the other Contracting State a person, in respect of That income, ice subject to tax by reference to the Amount thereof Which is remitted to or received in That other Contracting State and not by reference to the full Amount thereof, then the relief to be allowed under this Agreement in the first-MENTIONED Contracting State Shall apply only to so much of the income as is remitted to or received That into other Contracting State.

second Any commission of this Agreement conferring an exemption or a reduction of tax Shall not apply to individual Entitled to any tax benefits under:

- (A) a law of either one of the States Which has been Identified in an Exchange of Notes between the States; or
- (B) any other Substantially similar tax law.

## **Article 28**

### **Members of diplomatic missions and consular posts**

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

## **Article 29**

## Entry into force

1. Each of the Contracting States Shall notify the other of the completion of the procedures required by its law for the entry into force of this Agreement.

2nd The Agreement Shall enter into force on the thirtieth day after the receipt of the later of These notifications and Shall there upon 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 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 Sweden:

(I) in respect of taxes withheld at source, to income derived on 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 other taxes on income, to taxes chargeable for any tax year beginning on or after the first day of January in the calendar year Following the Year in Which this Agreement Enters Into Force.

third The Agreement between the Government of Malaysia and the Government of the Kingdom of Sweden for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed at Kuala Lumpur on November 21, 1970 Shall terminate and cease to have effect from the dates upon Which this Agreement has effect in accordance with the provisions of paragraph 2 of this Article.

## Article 30

### Termination

This Agreement Shall remainings in effect indefinitely, but either Contracting State May terminate the Agreement, through diplomatic channels, 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 this 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 Sweden:

(I) in respect of taxes withheld at source, to income derived 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 other taxes on income, to taxes chargeable for any tax year beginning on or after the first day of January in the calendar year Following the Year in Which the notice is given.

IN WITNESS whereof the undersigned, Duly Authorised thereto, by Their respectively Governments, have signed this Agreement.

DONE in duplicate at Stockholm this twelfth day of March, 2002, each in the Malay, the Swedish and the English language, the three 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.

**For the Government of the Kingdom of Sweden**

**Leif Pagrotsky**

**For the Government of Malaysia**

**Seri Rafidah Aziz**

**PROTOCOL**

1. At the time of signing the Agreement between the Government of the Kingdom of Sweden and the Government of Malaysia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, both Governments have Agreed That the Following commission Shall form an integral part of the Agreement.

2nd It is under stood that:

(A) with reference to Article 8, profits derived by the air transport consortium Scandinavian Airlines System (SAS), the provisions of paragraph 1 Shall apply only to Such party of the profits as corresponds to the participation held in That consortium by SAS Sweden AB, the Swedish partner of SAS;

(B) with reference to paragraph 3 of Article 14, gains derived by the air transport consortium Scandinavian Airlines System (SAS), the provisions of this paragraph Shall apply only to Such party of the profits as corresponds to the participation held in That consortium by SAS Sweden AB, the Swedish partner of SAS; and

(C) with reference to paragraph 3 of Article 16, where a resident of Sweden DERIVES Remuneration in respect of an employment Exercised aboard an aircraft operated in international traffic by the air transport consortium Scandinavian Airlines System (SAS), Such Remuneration Shall be taxable only in Sweden.

IN WITNESS whereof the undersigned, Duly Authorised thereto, by Their respectively Governments, have signed this Protocol.

DONE in duplicate at Stockholm this twelfth day of March 2002, each in the Malay, the Swedish and the English language, the three 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.

**For the Government of the Kingdom of Sweden**

**Leif Pagrotsky**

**For the Government of Malaysia**

**Seri Rafidah Aziz**

(Translation)

I have the honor to refer to the Agreement between the Government of Sweden and the Government of Malaysia for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income signed today and to propose to the Kingdom of Sweden on behalf of, with reference to Article 27, paragraph 2:

The provisions of this Agreement shall not apply to persons engaged in offshore activities under Labuan Offshore Business Activity Tax Act 1990 (as amended).

"Offshore Operations" means the offshore activities defined under Section 2 (1) of the Labuan Offshore Business Activity Tax Act 1990 (as amended).

If this proposal is acceptable to the Government of Malaysia, I have the honor to propose that this note and Your Excellency's reply to this shall be construed as an agreement which forms an integral part of the agreement for avoidance of double taxation in this part, which shall enter into force at the same date of entry into force of this Agreement.

**For the Government of Sweden**

**Leif Pagrotsky**

I have the honor to acknowledge the receipt of Your Excellency note of today which reads as follows.

"I have the honor to refer to the Agreement between the Government of Sweden and the Government of Malaysia for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income signed today and to propose to the Kingdom of Sweden on behalf of, with reference to Article 27, paragraph 2:

The provisions of this Agreement shall not apply to persons engaged in offshore activities under Labuan Offshore Business Activity Tax Act 1990 (as amended).

"Offshore Operations" means the offshore activities defined under Section 2 (1) of the Labuan Offshore Business Activity Tax Act 1990 (as amended).

If this proposal is acceptable to the Government of Malaysia, I have the honor to propose that this note and Your Excellency's reply to this shall be construed as an agreement which forms an integral part of the agreement for avoidance of double

taxation in this part, which shall enter into force at the same date of entry into force of this Agreement. "

The above proposal is acceptable to the Government of Malaysia, why do I have the honor to confirm that Your Excellency note and this reply shall be regarded as an agreement which forms an integral part of the agreement for avoidance of double taxation in this part, which shall enter into force on the same date as entry into force of this Agreement.

**For the Government of Malaysia**

Seri Rafidah Aziz