



Double Taxation Avoidance Agreement between Singapore and Germany

Entered into force on December 12, 2006

DEZAN SHIRA & ASSOCIATES

Corporate Establishment, Tax, Accounting & Payroll Throughout Asia

This document was downloaded from ASEAN Briefing (www.aseanbriefing.com) and was compiled by the tax experts at Dezan Shira & Associates (www.dezshira.com).

Dezan Shira & Associates is a specialist foreign direct investment practice, providing corporate establishment, business advisory, tax advisory and compliance, accounting, payroll, due diligence and financial review services to multinationals investing in emerging Asia.

**AGREEMENT BETWEEN
THE REPUBLIC OF SINGAPORE AND THE FEDERAL REPUBLIC OF GERMANY
FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO
TAXES ON INCOME AND ON CAPITAL**

Date of Conclusion: 28 June 2004.

Entry into Force: 12 December 2006.

Effective Date: 1 January 2007.

NOTE

Subsequent to the conclusion of the new Agreement on 28 June 2004, mutually agreed changes were made to paragraph 1(e)(aa) and paragraph 1(h) of Article 24 (Avoidance of Double Taxation in the State of Residence) of the new Agreement, which are incorporated into the text of the new Agreement.

There was an earlier Agreement signed between the Republic of Singapore and the Federal Republic of Germany for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital. The text of this Agreement which was signed on 19 February 1972 is shown in Annex A.

The Republic of Singapore and the Federal Republic of Germany -

Desiring to conclude an Agreement for the Avoidance of Double Taxation with Respect to Taxes on Income and on Capital to promote their mutual economic relations, -

Have agreed as follows:

Article 1 - Personal Scope

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

Article 2 - Taxes Covered

1. This Agreement shall apply to taxes on income and on capital imposed on behalf of a Contracting State, of a Land or a political subdivision or a local authority thereof, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property and taxes on capital appreciation.
3. The existing taxes to which this Agreement shall apply are in particular:
 - (a) in the Federal Republic of Germany:

the income tax (Einkommensteuer),
the corporation tax (Körperschaftsteuer),
the capital tax (Vermögensteuer), and
the trade tax (Gewerbesteuer)
including the supplements levied thereon

(hereinafter referred to as "German tax");

(b) in Singapore:

the income tax

(hereinafter referred to as "Singapore tax").

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

Article 3 - General Definitions

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

- (a) the term "Federal Republic of Germany" means the territory of the Federal Republic of Germany, as well as the area of the sea-bed, its subsoil and the superjacent water column adjacent to the territorial sea, insofar as the Federal Republic of Germany exercises there, in conformity with international law and its national legislation, sovereign rights and jurisdiction to explore and exploit the natural resources;
- (b) the term "Singapore" means the territory of the Republic of Singapore, as well as the area of the sea-bed, its subsoil and the superjacent water column adjacent to the territorial sea, insofar as the Republic of Singapore exercises there, in conformity with international law and its national legislation, sovereign rights and jurisdiction to explore and exploit the natural resources;
- (c) the terms "a Contracting State" and "the other Contracting State" mean the Federal Republic of Germany or Singapore as the context requires;
- (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 on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

- (h) the term "national" means:
 - (aa) in respect of the Federal Republic of Germany:

any German within the meaning of the Basic Law of the Federal Republic of Germany or any legal person, partnership or association deriving its status as such from the laws in force in the Federal Republic of Germany;
 - (bb) in respect of Singapore:

any individual possessing the nationality of Singapore or any legal person, partnership or association deriving its status as such from the laws in force in Singapore;
 - (i) the term "competent authority" means:
 - (aa) in the case of the Federal Republic of Germany, the Federal Ministry of Finance or the agency to which it has delegated its powers;
 - (bb) in the case of Singapore, the Minister for Finance or his authorised representative.
2. As regards the application of this Agreement at any time by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4 - Resident

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that State, a Land and any political subdivision or local authority or statutory body thereof.
2. Where by reason of the provisions of paragraph 1 above 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 of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
 - (b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
 - (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
 - (d) in any other case, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 above a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

Article 5 - Permanent Establishment

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
 - (a) a place of management;
 - (b) a branch;
 - (c) an office;
 - (d) a factory;
 - (e) a workshop; and
 - (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. A building site or construction or installation or assembly project constitutes a permanent establishment only if it lasts more than six months.
4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:
 - (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
 - (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
 - (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
 - (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e) above, provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
5. Notwithstanding the provisions of paragraphs 1 and 2 above, where a person - other than an agent of an independent status to whom paragraph 6 below applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an

authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.
7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6 - Income from Immovable Property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.
2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 above shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 above shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7 - Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar

conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions all expenses, including executive and general administrative expenses, which would be deductible if the permanent establishment were an independent enterprise, whether incurred in the Contracting State in which the permanent establishment is situated or elsewhere.
4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs of this Article, 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. This Article shall also apply to income of a resident of a Contracting State who carries on business in the other Contracting State as a partner of a partnership. It shall further apply to remuneration received by a partner from the partnership for activities in the service of the partnership and for the granting of loans or the provisions of assets to the partnership, where such remuneration is attributable under the tax law of the Contracting State in which the permanent establishment is situated to the income derived by a partner from that permanent establishment.
8. 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 from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
2. For the purpose of this Article, profits from the operation of ships or aircraft in international traffic also include:
 - (a) income from the rental on a bareboat basis of ships or aircraft; and
 - (b) income from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise;where such rental, use or maintenance, as the case may be, is incidental to the operation of ships or aircraft in international traffic.
3. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of

the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

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

Article 9 - Associated Enterprises

1. Where

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

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

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

Article 10 - Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:
 - (a) 5 per cent of the gross amount of the dividends if the beneficial owner (other than an individual or a partnership) holds directly at least 10 per cent of the capital of the company paying the dividends;
 - (b) 15 per cent of the gross amount of the dividends in all other cases.

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

3. Notwithstanding the provisions of paragraphs 1 and 2 above, in the Federal Republic of Germany, income of a sleeping partner ("stiller Gesellschafter") from his participation as

such or from a “partiarisches Darlehen” or a “Gewinnobligation” that is deductible in determining the profits of the debtor may be taxed in the Federal Republic of Germany according to its laws.

4. As long as Singapore does not impose a tax on dividends in addition to the tax chargeable on the profits or income of a company, dividends paid by a company which is a resident of Singapore to a resident of the Federal Republic of Germany shall be exempt from any tax in Singapore which may be chargeable on dividends in addition to the tax chargeable on the profits or income of the company. Under the full imputation system currently adopted in Singapore, the tax deductible from dividends is a tax on the profits or income of the company and not a tax on dividends within the meaning of this Article. If subsequent to the signing of the Agreement, Singapore imposes a tax on dividends in addition to the tax chargeable in respect of the profits or income of a company which is a resident of Singapore, such tax may be charged but the tax so charged on the dividends derived by a resident of the Federal Republic of Germany who is the beneficial owner of such dividends shall be in accordance with the provisions of paragraph 2.
5. The term “dividends” as used in this Article means income from shares, “jouissance” shares or “jouissance” rights, mining shares, founders’ shares or other income 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 and includes distributions of an investment fund or investment trust. In the Federal Republic of Germany, the term “dividends” includes also income derived by a sleeping partner (“stiller Gesellschafter”) from his participation as such or from a “partiarisches Darlehen” or a “Gewinnobligation”.
6. The provisions of paragraphs 1 and 2 above shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
7. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company’s undistributed profits to a tax on the company’s undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11 - Interest

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 8 per cent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2 above,

- (a) interest arising in the Federal Republic of Germany and paid to the Government of Singapore, the Monetary Authority of Singapore and the Board of Commissioners of Currency, the Government of Singapore Investment Corporation Pte. Ltd. or any other similar institution as may be agreed from time to time between the competent authorities of the Contracting States and interest paid in consideration of a loan guaranteed by ECICS Credit Insurance Ltd. shall be exempt from German tax;
 - (b) interest arising in Singapore and paid to the Federal Republic of Germany, a Land, a political subdivision or a local authority thereof, the Deutsche Bundesbank, the Kreditanstalt für Wiederaufbau, the DEG – Deutsche Investitions – und Entwicklungsgesellschaft mbH or any other similar institution as may be agreed from time to time between the competent authorities of the Contracting States and interest paid in consideration of a loan guaranteed by HERMES-Deckung shall be exempt from Singapore tax.
- 4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article. However, the term "interest" shall not include income dealt with in Article 10.
- 5. The provisions of paragraphs 1, 2 and 3 above shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
- 6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a Land, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
- 7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 12 - Royalties

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

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 8 per cent of the gross amount of the royalties.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, and films or tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.
4. The provisions of paragraphs 1 and 2 above shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a Land, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the 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 royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 13 - Capital Gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
2. Gains derived by a resident of a Contracting State from the alienation of shares and similar rights in a company, the assets of which derive at least 75 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State. This shall not apply to shares traded on a recognised Stock Exchange.
3. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of

such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

4. Gains 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 the Contracting State in which the place of effective management of the enterprise is situated.
5. Gains from the alienation of any property other than that referred to in paragraphs 1 to 4 above shall be taxable only in the Contracting State of which the alienator is a resident.
6. Where an individual was a resident of a Contracting State for a period of 5 years or more and has become a resident of the other Contracting State, paragraph 5 above shall not prevent the first-mentioned State from taxing under its domestic law the capital appreciation of shares in a company resident in the first-mentioned State for the period of residency of that individual in the first-mentioned State. Where the first-mentioned Contracting State has taxed the appreciation of capital pursuant to the first sentence, this appreciation of capital shall not be included in the determination of the subsequent appreciation of capital by the other Contracting State.

Article 14 - Independent Personal Services

1. Income derived by an individual who is a resident of a Contracting State from the performance of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances when such income may also be taxed in the other Contracting State:
 - (a) if he has a fixed base regularly available to him in the other State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other State; or
 - (b) if his presence in the other State is for a period or periods exceeding in the aggregate 183 days 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.
2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, dentists, lawyers, engineers, architects and accountants.

Article 15 - Dependent Personal Services

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

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any 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, and
 - (d) the remuneration is subject to tax in the first-mentioned State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise which operates the ship or aircraft is situated. However, if the remuneration is derived by a resident of the other Contracting State, it may also be taxed in that other State.

Article 16 - Directors' Fees

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

Article 17 - Artistes and Sportsmen

1. Notwithstanding the provisions of Articles 7, 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State may be taxed in that other State.
2. Notwithstanding the provisions of Article 12, the income derived by the person mentioned in paragraph 1 above from his personal activities exercised in the other Contracting State shall also include:
 - (a) remuneration of any kind paid for the use of or the right to use his name, picture or other personal rights; and
 - (b) income derived from any right for the recording and transmission of his artistic or athletic performances by radio, television or any other media,

provided that such remuneration or income is effectively connected with his personal activities exercised in the other Contracting State.
3. Where income as defined in paragraphs 1 and 2 above accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.
4. Paragraphs 1 and 3 above shall not apply to income accruing from the exercise of activities by artistes or sportsmen in a Contracting State where the visit to that State is financed entirely or mainly from public funds of a State, a Land, a political subdivision or a local authority thereof or by a recognised charitable organisation in the Federal

Republic of Germany or by a statutory body in Singapore. In such a case the income shall be taxable only in the Contracting State of which the person is a resident.

Article 18 - Pensions, Annuities and Similar Payments

1. Pensions and similar payments or annuities paid to a resident of a Contracting State from the other Contracting State shall be taxable only in the first-mentioned State.
2. Notwithstanding the provisions of paragraph 1 above, payments received by an individual being a resident of a Contracting State from the statutory social insurance of the other Contracting State shall be taxable only in that other State.
3. Notwithstanding the provisions of paragraph 1 above, recurrent or non-recurrent payments made by one of the Contracting States or a political subdivision thereof to a person resident in the other Contracting State for damages sustained as a result of war or political persecution or of military or civil service (including restitution payments) shall be taxable only in the first-mentioned State.
4. The term “annuities” means certain amounts payable periodically at stated times, for life or for a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money’s worth.

Article 19 - Government Service

1. Salaries, wages and other similar remuneration, other than pensions, paid by a Contracting State, a Land, a political subdivision or a local authority thereof or some other legal entity under public law of that State to an individual in respect of services rendered to that State, a Land, a political subdivision or a local authority thereof or some other legal entity under public law shall be taxable only in that State. However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and if the individual is a resident of that State and:
 - (a) is a national of that State; or
 - (b) did not become a resident of that State solely for the purpose of rendering the services.
2. Notwithstanding the provisions of Article 18,
 - (a) Pensions paid by a Contracting State, a Land, a political subdivision or a local authority thereof or some other legal entity under public law of that State to an individual in respect of services rendered to that State, a Land, a political subdivision or a local authority thereof or some other legal entity under public law shall be taxable only in that State.
 - (b) However, such pensions shall be taxable only in the other Contracting State if the individual is a resident of that State and a national of that State.
3. The provisions of Articles 15, 16 and 18 shall apply to salaries, wages and other similar remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State, a Land, a political subdivision or a local authority thereof or some other legal entity under public law of that State.

4. The provisions of paragraph 1 above shall likewise apply in respect of salaries, wages and other similar remuneration paid, under a development assistance programme of a Contracting State, a Land, a political subdivision or a local authority thereof or some other legal entity under public law of that State, out of funds exclusively supplied by that State, Land, political subdivision, local authority or other legal entity under public law, to a specialist or volunteer seconded to the other Contracting State with the consent of that other State.
5. The provisions of paragraph 1 above shall likewise apply in respect of salaries, wages and other similar remuneration paid by or for the Goethe Institute of the Federal Republic of Germany. Corresponding treatment of the salaries, wages and other similar remuneration of other comparable institutions of the Contracting States may be arranged by the competent authorities by mutual agreement. If such salaries, wages and other similar remuneration are not taxed in the State where the institution was founded, the provisions of Article 15 shall apply.

Article 20 - Visiting Professors, Teachers and Students

1. An individual who visits a Contracting State at the invitation of that State or of a university, college, school, museum or other cultural institution of that State or under an official programme of cultural exchange for a period not exceeding two years solely for the purpose of teaching, giving lectures or carrying out research at such institution and who is, or was immediately before that visit, a resident of the other Contracting State shall be exempt from tax in the first-mentioned State on his remuneration for such activity, provided that such remuneration is paid to him from outside that State.
2. Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 21 - Other Income

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

Article 22 - Remittance Clause

1. Where this Agreement provides (with or without other conditions) that income from sources in a Contracting State shall be exempt from tax, or taxed at a reduced rate, in that State and under the laws in force in the other Contracting State the said income is subject to tax by reference to the amount thereof which is remitted to or received in that other State and not by reference to the full amount thereof, then the exemption or

reduction of tax to be allowed under this Agreement in the first-mentioned State shall apply only to so much of the income as is remitted to or received in the other State.

2. However, this limitation does not apply to income derived, in the case of Singapore, by the Government of Singapore including its agencies and statutory bodies, and, in the case of the Federal Republic of Germany, by the Federal Republic of Germany, a Land, a political subdivision or a local authority thereof. This limitation also does not apply to income derived by any person of a Contracting State approved by the competent authority of that State.

Article 23 - Capital

1. Capital represented by immovable property, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.
2. Capital represented by 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 by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.
3. Capital represented by ships and aircraft operated in international traffic, and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 24 - Avoidance of Double Taxation in the State of Residence

1. Tax shall be determined in the case of a resident of the Federal Republic of Germany as follows:

- (a) Unless foreign tax credit is to be allowed under sub-paragraph (b), there shall be exempted from the assessment basis of the German tax any item of income arising in Singapore and any item of capital situated within Singapore which, according to this Agreement, may be taxed in Singapore.

In the case of items of income from dividends the preceding provision shall apply only to such dividends as are paid to a company (not including partnerships) being a resident of the Federal Republic of Germany by a company being a resident of Singapore at least 10 per cent of the capital of which is owned directly by the German company and which were not deducted when determining the profits of the company distributing these dividends.

There shall be exempted from the assessment basis of the taxes on capital any shareholding the dividends of which, if paid, would be exempted according to the foregoing sentences.

- (b) Subject to the provisions of German tax law regarding credit for foreign tax, there shall be allowed as a credit against German tax payable in respect of the following items of income the Singapore tax paid under the laws of Singapore and in accordance with this Agreement:

- (aa) dividends not dealt with in sub-paragraph (a) above;
 - (bb) interest;
 - (cc) royalties;
 - (dd) items of income that may be taxed in Singapore according to paragraph 2 of Article 13;
 - (ee) items of income that may be taxed in Singapore according to paragraph 3 of Article 15;
 - (ff) directors' fees as defined in Article 16;
 - (gg) items of income as defined in Article 17.
- (c) The provisions of sub-paragraph (b) above shall apply instead of the provisions of sub-paragraph (a) above to items of income as defined in Articles 7 and 10 and to the assets from which such income is derived if the resident of the Federal Republic of Germany does not prove that the gross income of the permanent establishment in the business year in which the profit has been realized or of the company resident in Singapore in the business year for which the dividends were paid was derived exclusively or almost exclusively from activities within the meaning of nos. 1 to 6 of paragraph 1 of section 8 of the German Law on External Tax Relations (Aussensteuergesetz); the same shall apply to immovable property used by a permanent establishment (paragraph 4 of Article 6) and to profits from the alienation of such immovable property (paragraph 1 of Article 13) and of the movable property forming part of the business property of the permanent establishment (paragraph 3 of Article 13).
- (d) The Federal Republic of Germany, however, retains the right to take into account in the determination of its rate of tax the items of income and capital, which are under the provisions of this Agreement exempted from German tax.
- (e) Notwithstanding the provisions of sub-paragraph (a) double taxation shall be avoided by allowing a tax credit as laid down in sub-paragraph (b):
- (aa) if in the Contracting States items of income or capital are placed under differing provisions of this Agreement or attributed to different persons (except pursuant to Article 9) and this conflict cannot be settled by a procedure in accordance with paragraph 3 of Article 26 and if as a result of this difference in placement or attribution the relevant income or capital would remain untaxed or be taxed lower than without this conflict or
 - (bb) if after due consultation with the competent authority of Singapore the Federal Republic of Germany notifies through diplomatic channels of other items of income to which it intends to apply the provisions of sub-paragraph (b). Double taxation is then avoided for the notified income by allowing a tax credit from the first day of the calendar year next following that in which the notification was made.
- (f) For the purposes of credit referred to in sub-paragraph (b), where the rate of Singapore tax on interest to which paragraph 2 of Article 11 applies is reduced

below 8 per cent of the gross amount of such interest by virtue of special incentive measures designed to promote economic development in Singapore, the amount of Singapore tax shall be deemed to be 8 per cent of the gross amount of such interest.

- (g) For the purposes of credit referred to in sub-paragraph (b), where the rate of Singapore tax on royalties to which paragraph 2 of Article 12 applies is reduced below 8 per cent of the gross amount of such royalties by virtue of special incentive measures designed to promote economic development in Singapore, the amount of Singapore tax shall be deemed to be 8 per cent of the gross amount of such royalties.
- (h) The provisions of sub-paragraphs (f) and (g) shall cease to have effect for interest and royalties which arise or accrue in Singapore after 31 December 2005.

2. Tax shall be determined in the case of a resident of Singapore as follows:

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

Article 25 - 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, especially with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
- 2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.
- 3. Nothing in this Article shall be construed as obliging a Contracting State to grant to:
 - (a) residents of the other Contracting State any personal allowances, reliefs and reductions for tax purposes which it grants to its own residents; or
 - (b) nationals of the other Contracting State those personal allowances, reliefs and reductions for tax purposes which it grants to its own nationals who are not residents of that State or to such other persons who have been granted such personal allowances, reliefs and reductions under the taxation laws of that State as at the date of the signing of this Agreement.

4. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties 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. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.
5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.
6. In this Article, the term “taxation” means taxes which are the subject of this Agreement.

Article 26 - Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the avoidance of double taxation in cases not provided for in the Agreement.
4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 27 - Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement insofar as the taxation thereunder is not contrary to the Agreement. Any information 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) involved in 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 persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:
 - (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
 - (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
 - (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or to supply information the disclosure of which would be contrary to public policy.

Article 28 - Refund of Withholding Tax

1. If in one of the Contracting States the taxes on dividends, interest, royalties or other items of income derived by a person who is a resident of the other Contracting State are levied by withholding at source, the right of the first-mentioned State to apply the withholding of tax at the rate provided under its domestic law shall not be affected by the provisions of this Agreement. The tax withheld at source shall be refunded on application by the taxpayer if and to the extent that it is reduced by this Agreement or ceases to apply.
2. Refund applications must be submitted by the end of the fourth year following the calendar year in which the withholding tax was applied to the dividends, interest, royalties or other items of income.
3. The Contracting State in which the items of income arise may ask for a certificate by the competent authority on the residence in the other Contracting State.
4. The competent authorities may by mutual agreement implement the provisions of this Article and if necessary establish other procedures for the implementation of tax reductions or exemptions provided for under this Agreement.

Article 29 - Application of the Agreement in Special Cases

1. This Agreement shall not be interpreted to mean that a Contracting State is prevented from applying its domestic legal provisions on the prevention of tax evasion or tax avoidance.
2. If the above provisions result in double taxation, the competent authorities shall consult pursuant to paragraph 3 of Article 26 on how to avoid double taxation.

Article 30 - Members of Diplomatic Missions and Consular Posts

1. Nothing in this Agreement shall affect the fiscal privileges of members of a diplomatic mission, a consular post or an international organisation under the general rules of international law or under the provisions of special agreements.

2. Insofar as, to the extent that, due to fiscal privileges granted to diplomatic agents or consular officers under the general rules of international law or under the provisions of special international agreements, items of income or capital are not subject to tax in the receiving State, the sending State shall have the right to tax such items of income or capital.
3. Notwithstanding the provisions of Article 4, an individual who is a member of a diplomatic mission, a consular post or a permanent mission or a Contracting State which is situated in the other Contracting State or in a third State shall be deemed for the purposes of this Agreement to be a resident of the sending State if:
 - (a) in accordance with international law he is not liable to tax in the receiving State in respect of items of income from sources outside that State; and
 - (b) he is liable in the sending State to the same obligations in relation to tax on his total income or on capital as are residents of that State.
4. This Agreement shall not apply to international organisations, to organs or officials thereof, and to members of a diplomatic mission or consular post of a third State and persons related to them, being present in a Contracting State but not being treated in either Contracting State for purposes of taxes on income and on capital as residents are treated.

Article 31 - Entry into Force

1. This Agreement shall be ratified and the instruments of ratification shall be exchanged at Berlin as soon as possible.
2. This Agreement shall enter into force on the day of the exchange of the instruments of ratification and shall have effect:
 - (a) in the Federal Republic of Germany:
 - (aa) in the case of taxes withheld at source, in respect of amounts paid on or after the first day of January of the calendar year next following that in which the Agreement entered into force;
 - (bb) in the case of other taxes, in respect of taxes levied for any assessment period beginning on or after the first day of January of the calendar year next following that in which the Agreement entered into force;
 - (b) in Singapore:
 - (aa) in the case of taxes withheld at source, in respect of amounts paid on or after the first day of January of the calendar year next following that in which the Agreement entered into force;
 - (bb) in the case of other taxes, in respect of taxes levied on any basis period beginning on or after the first day of January of the calendar year next following that in which the Agreement entered into force.
3. The Agreement between the Republic of Singapore and the Federal Republic of Germany for the Avoidance of Double Taxation with respect to Taxes on Income and Capital signed on 19th February 1972 shall cease to have effect for all cases covered by

this Agreement as from the date on which the provisions of this Agreement commence to have effect.

Article 32 - Termination

This Agreement shall remain in effect indefinitely but either of the Contracting States may, on or before the thirtieth day of June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give the other Contracting State, through diplomatic channels, written notice of termination and, in such event, this Agreement shall cease to have effect:

(a) in the Federal Republic of Germany:

(aa) in the case of taxes withheld at source, in respect of amounts paid on or after the first day of January of the calendar year next following that in which notice of termination is given;

(bb) in the case of other taxes, in respect of taxes levied for any assessment period beginning on or after the first day of January of the calendar year next following that in which notice of termination is given;

(b) in Singapore:

(aa) in the case of taxes withheld at source, in respect of amounts paid on or after the first day of January of the calendar year next following that in which notice of termination is given;

(bb) in the case of other taxes, in respect of taxes levied on any basis period beginning on or after the first day of January of the calendar year next following that in which notice of termination is given.

Article 33 - Protocol

The attached Protocol shall form an integral part of this Agreement.

Done at Singapore this 28th day of June 2004 in two originals, each in the English and German languages, both texts being equally authentic.

For the Republic of Singapore

For the Federal Republic of Germany

Koh Cher Siang
Commissioner of Inland Revenue

Andreas Michaelis
Ambassador

PROTOCOL

Protocol to the Agreement between the Republic of Singapore and the Federal Republic of Germany for the Avoidance of Double Taxation with respect to Taxes on Income and on Capital signed on 28th June 2004 at Singapore.

On signing the agreement between the Republic of Singapore and the Federal Republic of Germany for the Avoidance of Double Taxation with respect to Taxes on Income and on Capital the Contracting States have agreed on the following provisions which shall form an integral part of the said Agreement:

1. With reference to Article 4:

The term "statutory body" means a body constituted by any statute of a Contracting State and performing functions which would otherwise be performed by the Government of that Contracting State.

The competent authority of a Contracting State shall upon request confirm to the competent authority of the other Contracting State whether a particular entity is a statutory body of the first-mentioned Contracting State.

2. With reference to Article 7:

- (a) In the case of contracts, in particular for the survey, supply, installation or construction of industrial, commercial or scientific equipment or premises, or of public works, where the enterprise has a permanent establishment in the other Contracting State, the profits of such permanent establishment shall not be determined on the basis of the total amount of the contract, but only on the basis of that part of the contract which is effectively carried out by the permanent establishment in the Contracting State in which it is situated. Profits derived from the supply of goods to that permanent establishment or profits related to the part of the contract which is carried out in the Contracting State in which the head office of the enterprise is situated shall be taxable only in that State.
- (b) Payments received as a consideration for technical services, including studies or surveys of a scientific, geological or technical nature, or for engineering contracts including blue prints related thereto, or for consultancy or supervisory services shall be deemed to be payments to which the provisions of Article 7 or Article 14 of the Agreement apply.

3. With reference to Articles 8 and 23:

The provisions of Articles 8 and 23 of the Agreement shall apply to any item of income derived from the Federal Republic of Germany, or to any item of capital situated within the Federal Republic of Germany owned, by a company or a body of persons treated as an entity for tax purposes which is a resident of Singapore more than 50 per cent of the capital of which is owned directly or indirectly by persons who are not residents of Singapore, only if such company or body of persons proves that the Singapore tax appropriate to the income is equal to the Singapore tax which would have been appropriate to such income if the Singapore tax were computed without regard to any provision identical or similar to the provisions of section 13A of the Singapore Income Tax Act.

4. With reference to Article 24 paragraph 1 sub-paragraph (e)(bb):

The Federal Republic of Germany shall not make use of the right of notification until five years have elapsed since the entry into force of the Agreement.

5. With reference to Article 25

Nothing in this Article shall prevent the Republic of Singapore from applying section 42 A of the Income Tax Act (Chapter 134).

6. With reference to Article 27

If personal data are exchanged under this Agreement, the following additional provisions shall apply subject to the legal provisions in effect for each Contracting State:

- (a) The recipient shall upon request inform the supplying agency about the purpose for which the supplied data was used.
- (b) The supplying agency shall be obliged to ensure that the data to be supplied are accurate and that they are necessary for and commensurate with the purpose for which they are supplied. If it emerges that inaccurate data, or data which should not have been supplied, have been supplied, the recipient shall be informed of this without delay. The recipient shall be obliged to correct or to delete such data.
- (c) The Contracting States shall be obliged to keep official records of the supply and receipt of personal data.
- (d) The supplying and the receiving agencies shall be obliged to take effective measures to protect the personal data supplied against unauthorised access, unauthorised alteration and unauthorised disclosure.

For the Republic of Singapore

For the Federal Republic of Germany

**Koh Cher Siang
Commissioner of Inland Revenue**

**Andreas Michaelis
Ambassador**

ANNEX A

AGREEMENT BETWEEN THE REPUBLIC OF SINGAPORE AND THE FEDERAL REPUBLIC OF GERMANY FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND CAPITAL

The Republic of Singapore and the Federal Republic of Germany,

Desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income and capital,

Have agreed as follows:

ARTICLE 1 - PERSONAL SCOPE

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

ARTICLE 2 - TAXES COVERED

1. This Agreement shall apply to taxes on income and on capital imposed on behalf of each Contracting State or of its Laender, political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.
3. The existing taxes to which this Agreement shall apply are, in particular:
 - (a) in the Federal Republic of Germany:
 - the Einkommensteuer (income tax) including the Ergänzungsabgabe (surcharge) thereon,
 - the Körperschaftsteuer (corporation tax) including the Ergänzungsabgabe (surcharge) thereon,
 - the Vermögensteuer (capital tax) and
 - the Gewerbesteuer (trade tax)(hereinafter referred to as "German tax");
 - (b) in Singapore:
 - the income tax

(hereinafter referred to as "Singapore tax").

4. This Agreement shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes.

5. The provisions of this Agreement in respect of taxation of income or capital shall likewise apply to the German trade tax, computed on a basis other than income or capital.

ARTICLE 3 - GENERAL DEFINITIONS

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

- (a) the term "Federal Republic of Germany", when used in a geographical sense, means the territory in which the Basic Law for the Federal Republic of Germany is in force, as well as any area adjacent to the territorial waters of the Federal Republic of Germany designated, in accordance with international law as related to the rights which the Federal Republic of Germany may exercise with respect to the sea bed and sub-soil and their natural resources, as domestic area for tax purposes;
- (b) the term "Singapore" means the Republic of Singapore, and, when used in a geographical sense, the territory of Singapore as well as any area adjacent to the territorial waters of Singapore designated in accordance with international law as related to the rights which Singapore may exercise with respect to the sea bed and sub-soil and their natural resources, as domestic area for tax purposes;
- (c) the terms "a Contracting State" and "the other Contracting State" mean the Federal Republic of Germany or Singapore, as the context requires;
- (d) the term "person" includes an individual, a company and any body of persons treated as an entity for tax purposes;
- (e) the term "company" means any body corporate or any entity, which is treated as a body corporate for tax purposes;
- (f) the terms "resident of a Contracting State" and "resident of the other Contracting State" mean a person who is a resident of the Federal Republic of Germany or a person who is a resident of Singapore, as the context requires;
- (g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (h) the term "citizen" means:
 - (aa) in respect of the Federal Republic of Germany any German in the meaning of Article 116, paragraph 1, of the Basic Law for the Federal Republic of Germany and any legal person, partnership and association deriving its status as such from the law in force in the Federal Republic of Germany;

- (bb) in respect of Singapore any citizen of Singapore and any legal person, partnership and association deriving its status as such from the law in force in Singapore;
- (i) the term "competent authority" means in the case of the Federal Republic of Germany the Federal Minister for Economics and Finance, and in the case of Singapore the Minister for Finance or his authorized representative.

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

ARTICLE 4 - FISCAL DOMICILE

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

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

- (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);
- (b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) if he has an habitual abode in both Contracting States or in neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

ARTICLE 5 - PERMANENT ESTABLISHMENT

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

2. The term "permanent establishment" shall include especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;

- (d) a factory;
- (e) a workshop;
- (f) a farm or plantation;
- (g) a mine, oil well, quarry or other place of extraction of natural resources;
- (h) a building site or construction or assembly project which exists for more than six months.

3. The term "permanent establishment" shall not be deemed 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 for collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State - other than an agent of an independent status to whom paragraph 5 applies - shall be deemed to be a permanent establishment in the first-mentioned State if:-

- (a) he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise;
- (b) he has, and habitually exercises in that State, an authority to fill orders on behalf of the enterprise from a stock of goods or merchandise which he maintains in that State and which belongs to the enterprise.

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

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

ARTICLE 6 - IMMOVABLE PROPERTY

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.
2. The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in any case include rights to variable or fixed payments as consideration for the working of, or the right to work, mines, oil wells, quarries or other places of extraction of natural resources. Ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

ARTICLE 7 - BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in the State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by the permanent establishment of goods or merchandise for the enterprise.
5. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8 - SHIPS AND AIRCRAFT

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.
2. The provisions of paragraph 1 shall likewise apply in respect of participations in pools, in a joint business or in an international operation agency of any kind by enterprises engaged in the operation of ships or aircraft in international traffic.

ARTICLE 9 - RELATED PERSONS

Where

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

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

ARTICLE 10 - DIVIDENDS

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

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

- (a) 10 per cent of the gross amount of the dividends if the recipient is a company which owns directly at least 25 per cent of the capital of the company paying the dividends;
- (b) in all other cases, 15 per cent of the gross amount of the dividends.

3. Notwithstanding the provisions of paragraph 2, German tax on dividends paid to a company which is a resident of Singapore by a company which is a resident of the Federal Republic of Germany, at least 25 per cent of the capital of which is owned directly or indirectly by the former company itself, or by it together with other persons controlling it or being under common control with it, may be charged at a rate exceeding 15 per cent but not exceeding 27 per cent if the rate of German corporation tax on distributed profits is lower than that on undistributed profits and the difference between those two rates is 15 percentage points or more.

4. Notwithstanding the provisions of paragraph 2, as long as Singapore does not impose a tax on dividends in addition to the tax chargeable on the profits or income of a company, dividends paid by a company which is a resident of Singapore to a resident of the Federal Republic of Germany shall be exempt from any tax in Singapore which may be chargeable on dividends in addition to the tax chargeable on the profits or income of the company.

Provided that nothing in this paragraph shall affect the provisions of Singapore law under which the tax in respect of a dividend paid by a company which is a resident of Singapore from which Singapore tax has been, or has been deemed to be deducted, may be adjusted by reference to the rate of tax appropriate to the Singapore year of assessment immediately following that in which the dividend was paid.

5. The term "dividends" as used in this Article means income from shares as well as income from other corporate rights assimilated to income from shares by the taxation law of

the State of which the company making the distribution is a resident and includes distributions of an investment trust, and also includes in the case of the Federal Republic of Germany the income derived by a sleeping partner from his participation as such.

6. The provisions of paragraphs 1 to 4 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of Article 7 shall apply.

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

ARTICLE 11 - INTEREST

1. Interest derived from a Contracting State by a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may be taxed in the Contracting State from which it is derived, and according to the law of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of such interest.

3. Notwithstanding the provisions of paragraph 2, interest derived from a Contracting State shall be exempt from tax in that State if the interest is received by

- (a) the other Contracting State, a Land, a political subdivision or a local authority thereof, or
- (b) in the case of the Federal Republic of Germany, the "Deutsche Bundesbank", the "Kreditanstalt für Wiederaufbau" or the "Deutsche Gesellschaft für wirtschaftliche Zusammenarbeit (Entwicklungsgesellschaft)", and in the case of Singapore, the Board of Commissioners of Currency or the Monetary Authority of Singapore.

The competent authorities of the Contracting States shall determine by mutual agreement any other governmental institution to which this paragraph shall apply.

4. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State from which the income is derived.

5. The provisions of paragraphs 1 to 3 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State from which the interest is derived a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the provisions of Article 7 shall apply.

6. Interest shall be deemed to be derived from a Contracting State when the payer is that State itself, a Land, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting

State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to be derived from the Contracting State in which the permanent establishment is situated.

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

ARTICLE 12 - ROYALTIES

1. Royalties derived from a Contracting State by a resident of the other Contracting State shall be taxable only in that other State.

2. Notwithstanding the provisions of paragraph 1, royalties received as consideration for the use of, or the right to use, any copyright of literary or artistic work, including cinematograph films or tapes for television or broadcasting, may be taxed in, and according to the law of, the Contracting State from which they are derived.

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

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State from which the royalties are derived a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the provisions of Article 7 shall apply.

5. Royalties derived by a resident of a Contracting State shall be deemed to be derived from the other Contracting State when such royalties are so derived from that other State according to the law of that other State.

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

ARTICLE 13 - CAPITAL GAINS

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise), may be taxed in the other State. However, gains from the alienation of movable property of the kind referred to in paragraph 3 of Article 22 shall be taxable only in the Contracting State in which such movable property is taxable according to the said Article.

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

ARTICLE 14 - PERSONAL SERVICES

1. Subject to the provisions of Articles 15 to 19, salaries, wages, or other similar compensation or remuneration derived by a resident of a Contracting State in respect of personal services (including professional services) shall be taxable only in that State, unless the services are rendered in the other Contracting State. If the services are so rendered, such compensation or remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, compensation or remuneration derived by a resident of a Contracting State in respect of services rendered in the other Contracting State shall be taxable only in the first-mentioned State if

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days during the calendar year;
- (b) the compensation or remuneration is paid by, or on behalf of, a person who is not resident of the other State;
- (c) the compensation or remuneration is not borne by a permanent establishment which the person paying the compensation or remuneration has in the other State; and
- (d) the compensation or remuneration is subject to tax in the first-mentioned State.

3. Notwithstanding the provisions of paragraph 1, compensation or remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft in international traffic shall be taxable only in that State.

ARTICLE 15 - PUBLIC ENTERTAINERS

1. The provisions of paragraph 2 of Article 14 shall apply to salaries, wages, or other similar compensation or remuneration in respect of personal services (including professional services) rendered in a Contracting State by public entertainers (such as stage, motion picture, radio or television artistes, musicians and athletes) only if the visit to that Contracting State is substantially supported directly or indirectly from funds created by the other Contracting State, a Land, a political subdivision or a local authority thereof.

2. Notwithstanding anything contained in this Agreement, where the services mentioned in paragraph 1 are provided in a Contracting State by an enterprise of the other Contracting State then the profits derived from providing those services by such an enterprise may be taxed in the first-mentioned State unless the provision of such services by such enterprise is

substantially supported directly or indirectly from funds created by that other State, a Land, a political subdivision or a local authority thereof.

ARTICLE 16 - DIRECTORS' FEES

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

ARTICLE 17 - PENSIONS

Pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

ARTICLE 18 - PUBLIC FUNDS

1. Subject to the provisions of Article 17, remuneration paid by, or out of funds created by a Contracting State, a Land, a political subdivision or a local authority thereof to any individual in respect of an employment shall be taxable only in that State. If however, the employment is exercised in the other Contracting State by a resident of that State not being a citizen of the first-mentioned State, the remuneration shall be taxable only in that other State.

2. The provisions of Articles 14 to 16 shall apply to remuneration in respect of an employment in connection with any business carried on by a Contracting State, a Land, a political subdivision or a local authority thereof for the purpose of profits.

ARTICLE 19 - TEACHERS, STUDENTS AND TRAINEES

1. A professor or teacher who is, or immediately before was, a resident of a Contracting State and who visits the other Contracting State for a period not exceeding two years for the purpose of carrying out advanced study or research or for teaching at a recognized university, college or other similar institution not operated for the purposes of profit shall not be taxed in that other State on his remuneration for such work, provided that such remuneration is derived by him from outside that other State.

2. An individual who was a resident of a Contracting State immediately before visiting the other Contracting State and is temporarily present in that other State solely as a student at a university, college, school or other similar educational institution in that other State or as a business apprentice (including in the case of the Federal Republic of Germany a Volontär or a Praktikant) shall, from the date of his first arrival in that other State in connection with that visit, be exempt from tax in that other State

- (a) on all remittances from abroad for purposes of his maintenance, education or training; and
- (b) for a period not exceeding three years, on any remuneration not exceeding 6,000 DM or the equivalent in Singapore dollars for the calendar year for personal services rendered in that other Contracting State with a view to supplementing the resources available to him for such purposes.

3. An individual who was a resident of a Contracting State immediately before visiting the other Contracting State and is temporarily present in that other State solely for the purpose of study, research or training as a recipient of a grant, allowance or award from a

scientific, educational, religious or charitable organisation or under a technical assistance program entered into by the Government of a Contracting State shall, for a period not exceeding two years from the date of his first arrival in that other State in connection with that visit, be exempt from tax in that other State on

- (a) the amount of such grant, allowance or award;
- (b) all remittances from abroad for the purposes of his maintenance, education or training; and
- (c) any remuneration not exceeding 6 000 DM or the equivalent in Singapore dollars for the calendar year for personal services rendered in that other State, provided that such services form part of his study, research or training.

ARTICLE 20 - INCOME NOT EXPRESSLY MENTIONED

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Agreement shall be taxable only in that State.

ARTICLE 21 - LIMITATION OF RELIEF

Where, under any provision of this Agreement, income derived from a Contracting State, except interest to which paragraph 3 of Article 11 applies, is relieved from tax in that State and, under the law in force in the other Contracting State, such income is subject to tax by reference to the amount thereof which is remitted to or received in that other State and not by reference to the full amount thereof, then the relief to be allowed under this Agreement in the first-mentioned State shall apply only to so much of the income as is remitted to or received in the other State.

ARTICLE 22 - CAPITAL

1. Capital represented by immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.
2. Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise may be taxed in the Contracting State in which the permanent establishment is situated.
3. Ships and aircraft operated in international traffic by an enterprise of a Contracting State and movable property pertaining to the operation of such ships and aircraft, shall be taxable only in that State.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

ARTICLE 23 - RELIEF FROM DOUBLE TAXATION

1. Tax shall be determined in the case of a resident of the Federal Republic of Germany as follows:
 - (a) Unless the provisions of sub-paragraph (b) apply, there shall be excluded from the basis upon which German tax is imposed, any item of income derived from, and any item of capital situated within Singapore, which, according to this Agreement, may be taxed in Singapore. The Federal

Republic of Germany, however, retains the right to take into account in the determination of its rate of tax the items of income and capital so excluded. In the case of income from dividends, the foregoing provisions of this sub-paragraph shall apply only to such dividends as are paid to a company being a resident of the Federal Republic of Germany by a company being a resident of Singapore if at least 25 per cent of the capital of the Singapore company is owned directly by the German company. There shall also be excluded from the basis upon which German tax is imposed any shareholding, the dividends of which, if paid, would be excluded from the basis upon which tax is imposed according to the immediately foregoing sentence.

- (b) Subject to the provisions of German tax law regarding credit for foreign tax, there shall be allowed as a credit against German income tax or corporation tax payable in respect of the following items of income derived from Singapore, the Singapore tax paid under the laws of Singapore and in accordance with this Agreement on

- (aa) dividends to which sub-paragraph (a) does not apply;
- (bb) interest to which paragraph 2 of Article 11 applies;
- (cc) royalties to which paragraph 2 of Article 12 applies;
- (dd) income to which article 15 applies;
- (ee) remuneration to which Article 16 applies.

The credit shall not, however, exceed that part of the German tax, as computed before the credit is given, which is appropriate to such items of income.

- (c) For purposes of credit referred to in sub-paragraph (b), where the rate of Singapore tax on interest to which paragraph 2 of Article 11 applies is reduced below 10 per cent of the gross amount of such interest by virtue of special incentive measures designed to promote economic development in Singapore, the amount of Singapore tax shall be deemed to be 10 per cent of the gross amount of such interest.
- (d) For purposes of taxation of royalties to which paragraph 2 of Article 12 does not apply, where such royalties would, but for paragraph 1 of Article 12, have been exempted from Singapore tax by virtue of special incentive measures designed to promote economic development in Singapore, there shall be allowed as a credit as referred to in sub-paragraph (b) an amount of 10 per cent of the gross amount of such royalties.

2. Tax shall be determined in the case of a resident of Singapore as follows:

- (a) Subject to the provisions of Singapore tax law regarding credit for foreign tax, there shall be allowed as a credit against Singapore tax payable in respect of any item of income derived from, and any item of capital situated within the Federal Republic of Germany, the German tax paid under the laws of the Federal Republic of Germany and in accordance with this Agreement. The credit shall not, however, exceed that part of the Singapore tax, as computed before the credit is given, which is appropriate to such item of income.

- (b) Where such income is a dividend paid by a company which is a resident of the Federal Republic of Germany to a company which is a resident of Singapore and which owns directly or indirectly not less than 25 per cent of the capital of the German company, the credit shall take into account (in addition to any German tax on dividends) the German corporation tax payable in respect of its profits by the company paying the dividends.

ARTICLE 24 - NON-DISCRIMINATION

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

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

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

ARTICLE 25 - MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Agreement, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with this Agreement.
3. The competent authorities of the Contracting State shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.
4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of applying the provisions of this Agreement.

ARTICLE 26 - EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Agreement. Any information so exchanged shall

be treated as secret and shall not be disclosed to any persons, authorities or courts other than those concerned with the assessment, collection or prosecution in respect of taxes which are the subject of this Agreement.

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

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

ARTICLE 27 - DIPLOMATIC AND CONSULAR PRIVILEGES

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

ARTICLE 28 - LAND BERLIN

This Agreement shall also apply to Land Berlin, provided that the Government of the Federal Republic of Germany has not made a contrary declaration to the Government of the Republic of Singapore within three months from the date of entry into force of this Agreement.

ARTICLE 29 - ENTRY INTO FORCE

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

2. This Agreement shall enter into force on the day after the date of exchange of the instruments of ratification and shall have effect:

- (a) in the Federal Republic of Germany in respect of taxes which are levied for any assessment period beginning on or after January 1, 1968;
- (b) in Singapore in respect of taxes which are levied for any year of assessment beginning on or after January 1, 1969.

ARTICLE 30 - TERMINATION

This Agreement shall continue in effect indefinitely, but either of the Contracting States may, on or before the Thirtieth day of June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through diplomatic channels, written notice of termination and, in such event, this Agreement shall cease to be effective:

- (a) in the Federal Republic of Germany in respect of taxes which are levied for any assessment period following that in which the notice of termination is given;

- (b) in Singapore in respect of taxes which are levied for any year of assessment following the year after the year in which the notice of termination is given.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

DONE at Singapore this 19th day of February, 1972, four originals, two each in the English and German languages, all the texts being equally authentic.

*For the Government of the
Republic of Singapore:*

*For the Government of the
Federal Republic of Germany:*

HON SUI SEN

WILHELM LÖER

PROTOCOL (1972)

The Republic of Singapore and the Federal Republic of Germany have agreed at the Signing at Singapore on 19th February, 1972, of the Agreement between the two States for the avoidance of double taxation with respect to taxes on income and capital upon the following provisions which shall form an integral part of the said Agreement.

1. With reference to Article 5,

it is understood that 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 construction, installation or assembly project which is being undertaken in that other State.

2. With reference to Articles 8 and 22,

the provisions of Articles 8 and 22 of the Agreement shall apply to any item of income derived from the Federal Republic of Germany, or to any item of capital situated within the Federal Republic of Germany owned, by a company or a body of persons treated as an entity for tax purposes which is a resident of Singapore more than 50 per cent of the capital of which is owned directly or indirectly by persons who are not residents of Singapore, only if such company or body of persons proves that the Singapore tax appropriate to the income is equal to the Singapore tax which would have been appropriate to such income if the Singapore tax were computed without regard to any provision identical or similar to the provisions of section 13A of the Singapore Income Tax Ordinance as inserted by the Income Tax (Amendment) Act, 1969.

3. With reference to Article 23,

notwithstanding the provisions of paragraph 1, sub-paragraph (a), of Article 23 of the Agreement, the provisions of paragraph 1, sub-paragraph (b), of that Article shall apply likewise to the profits of, and to the capital represented by property forming part of the business property of, a permanent establishment; to dividends paid by, and to the shareholding in, a company; or to gains referred to in paragraph 2 of Article 13 of

the Agreement, provided that the resident of the Federal Republic of Germany concerned does not prove that the receipts of the permanent establishment or company are derived exclusively or almost exclusively

- (a) from producing or selling goods or merchandise, rendering engineering services, or doing banking or insurance business, within Singapore, or
- (b) from dividends paid by one or more companies, being residents of Singapore, more than 25 per cent of the capital of which is owned by the first-mentioned company, which themselves derive their receipts exclusively or almost exclusively from producing or selling goods and merchandise, rendering engineering services, or doing banking or insurance business, within Singapore.

*For the Government of the
Republic of Singapore:*

*For the Government of the
Federal Republic of Germany:*

HON SUI SEN

WILHELM LÖER