



Double Taxation Avoidance Agreement between Kazakhstan and Singapore

Entered into force on August 14, 2007

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 GOVERNMENT OF THE REPUBLIC OF SINGAPORE
AND
THE GOVERNMENT OF THE REPUBLIC OF KAZAKHSTAN
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME**

NOTE

Date of Conclusion: 19 September 2006
Entry into Force: 14 August 2007
Effective Date: 1 January 2008

The Government of the Republic of Singapore and the Government of the Republic of Kazakhstan,

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

Have agreed as follows:

Article 1 - PERSONAL SCOPE

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

ARTICLE 2 - TAXES COVERED

1 This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or of its administrative subdivisions or local authorities, irrespective of the manner in which they are levied.

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

3 The existing taxes to which this Agreement shall apply are in particular:

(a) in Kazakhstan:

- the corporate income tax
- the individual income tax

(hereinafter referred to as "Kazakhstan 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 entry into force 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 significant 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 "Kazakhstan" means the Republic of Kazakhstan, and when used in a geographical sense, the term "Kazakhstan" includes the territorial waters of Kazakhstan and any area outside the territorial waters, where, in accordance with the international law, Kazakhstan exercises or may hereafter exercise rights with respect to the sea-bed, sub-soil and their natural resources, and in which the laws relating to the Kazakhstan tax are applicable;
- (b) the term "Singapore" means the Republic of Singapore and when used in a geographical sense, the term "Singapore" includes the territorial waters of Singapore and any area extending beyond the limits of the territorial waters of Singapore, and the sea-bed and subsoil of any such area, which has been or may hereafter be designated under the laws of Singapore and in accordance with international law as an area over which Singapore has sovereign rights for the purposes of exploring and exploiting the natural resources, whether living or non-living;
- (c) the terms "a Contracting State" and "the other Contracting State" mean Kazakhstan 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 other 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 of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (h) the term "national" means any individual possessing the nationality of a Contracting State or any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;

- (i) the term "competent authority" means:
 - i) in the case of Kazakhstan, the Ministry of Finance or its authorised representative;
 - ii) in the case of Singapore, the Minister for Finance or his authorised representative.

2 As regards the application of this Agreement at any time by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has at that time under the law of that State concerning 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, place of incorporation, or any other criterion of a similar nature.

2 Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined 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) if his status cannot be determined by reason of subparagraphs (a) – (c) of this paragraph, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

ARTICLE 5 - PERMANENT ESTABLISHMENT

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

2 The term "permanent establishment" includes especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3 The term "permanent establishment" also includes:

- (a) a building site, a construction, installation or assembly project, or supervisory services connected therewith, but only if such site or project lasts for more than 12 months, or such services continue for more than 12 months;
- (b) an installation or structure used for the exploration of natural resources, or supervisory services connected therewith, or a drilling rig or ship used for the exploration of natural resources, but only if such use lasts for more than 9 months, or such services continue for more than 9 months;
- (c) the furnishing of services, including consultancy services, by an enterprise of a Contracting State through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the other Contracting State for more than 9 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), 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, where a person - other than an agent of an independent status to whom paragraph 6 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 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

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

ARTICLE 7 - BUSINESS PROFITS

1 The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2 Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3 In determining the profits of a permanent establishment, there shall be allowed as deductions those expenses, including executive and general administrative expenses, which would be deductible if the permanent establishment were an independent enterprise, insofar as they are reasonably allocable to the permanent establishment, whether incurred in the Contracting 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 that permanent establishment of goods or merchandise for the enterprise.

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

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

ARTICLE 8 - SHIPPING AND AIR TRANSPORT

1 Profits derived by a resident 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 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 accordance with the provisions of paragraph 1, 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 where the competent authorities of the Contracting State agree, upon consultation, that all or part of the profits so included are profits which would have accrued to the enterprise of the first-mentioned 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 agreed profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement.

ARTICLE 10 - DIVIDENDS

1 Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other 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 is a company which holds directly at least 25 per cent of the capital of the company paying the dividends;
- (b) 10 per cent of the gross amount of the dividends in all other cases.

3 Notwithstanding the provisions of paragraph 2:

- (a) dividends paid by a company which is a resident of the Republic of Singapore shall be exempt from tax in the Republic of Singapore if it is paid to:
 - (i) the Government of the Republic of Kazakhstan;
 - (ii) the National Bank of the Republic of Kazakhstan;
 - (iii) the statutory bodies of the Republic of Kazakhstan;
 - (iv) any other institutions wholly owned by the Government of the Republic of Kazakhstan as may be agreed from time to time between the competent authorities of the Contracting States;

- (b) dividends paid by a company which is a resident of the Republic of Kazakhstan shall be exempt from tax in the Republic of Kazakhstan if it is paid to:
 - (i) the Government of the Republic of Singapore;
 - (ii) the Monetary Authority of Singapore;
 - (iii) the Government of Singapore Investment Corporation Pte Ltd;
 - (iv) the statutory bodies of the Republic of Singapore;
 - (v) any other institutions wholly owned by the Government of the Republic of Singapore as may be agreed from time to time between the competent authorities of the Contracting States.

4 The provisions of this Article shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

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

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

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 undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

8 (a) Under the current Singapore laws, where dividends are paid by a company which is a resident of Singapore to a resident of Kazakhstan who is the beneficial owner of such dividends, there is no tax in Singapore which is chargeable on dividends in addition to the tax chargeable in respect of the profits or income of the company.

(b) 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 Kazakhstan who is the beneficial owner of such dividends shall be in accordance with the provisions of paragraph 2.

9 Nothing in this Agreement shall be construed as preventing a Contracting State from imposing, in addition to the income tax chargeable on the profits of a company attributable to a permanent establishment in that State, a branch tax on the after tax profits of that permanent establishment, provided that the branch tax so imposed shall not exceed 5 per cent of the after tax profits of that permanent establishment.

ARTICLE 11- INTEREST

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

2 However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3 Notwithstanding the provisions of paragraph 2:

- (a) interest paid by a company which is a resident of the Republic of Singapore shall be exempt from tax in the Republic of Singapore if it is paid to:
 - (i) the Government of the Republic of Kazakhstan;
 - (ii) the National Bank of the Republic of Kazakhstan;
 - (iii) the statutory bodies of the Republic of Kazakhstan;
 - (iv) any other institutions wholly owned by the Government of the Republic of Kazakhstan as may be agreed from time to time between the competent authorities of the Contracting States;
- (b) interest paid by a company which is a resident of the Republic of Kazakhstan shall be exempt from tax in the Republic of Kazakhstan if it is paid to:
 - (i) the Government of the Republic of Singapore;
 - (ii) the Monetary Authority of Singapore;
 - (iii) the Government of Singapore Investment Corporation Pte Ltd;
 - (iv) the statutory bodies of the Republic of Singapore;
 - (v) any other institutions wholly owned by the Government of the Republic of Singapore as may be agreed from time to time between the competent authorities of the Contracting States.

4 The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government or state 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.

5 The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other 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, an administrative subdivision, a local authority, a statutory body 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.

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

9 In the event that a resident of a Contracting State is denied relief from taxation in the other Contracting State by reason of the provisions of paragraph 8 of this Article, the competent authority of that other Contracting State shall notify the competent authority of the first-mentioned Contracting State.

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 10 per cent of the gross amount of the royalties.

3 The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including computer software, 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 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, an administrative subdivision, a local authority, a statutory body 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.

7 The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the rights in respect of which the royalties are paid to take advantage of this Article by means of that creation or assignment.

8 In the event that a resident of a Contracting State is denied relief from taxation in the other Contracting State by reason of the provisions of paragraph 7 of this Article, the competent authority of that other Contracting State shall notify the competent authority of the first-mentioned Contracting State.

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:

- (a) shares, other than shares traded on a recognised Stock Exchange, deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State; or
- (b) an interest in a partnership or trust the assets (other than shares traded on a recognised Stock Exchange) of which derive more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State,

may be taxed in that other State.

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

5 Gains from the alienation of any property other than that referred to in the preceding paragraphs of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 14 - INDEPENDENT PERSONAL SERVICES

1 Income derived by an individual who is a resident of a Contracting State 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 stay in the other State is for a period or periods exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the calendar year concerned; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.

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

ARTICLE 15 - DEPENDENT PERSONAL SERVICES

1 Subject to the provisions of Articles 16, 18 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, 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.

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

ARTICLE 17 - ARTISTES AND SPORTSMEN

1 Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman from his personal activities as such exercised in the other Contracting State may be taxed in that other State.

2 Where income in respect of or in connection with personal activities exercised by an entertainer or a sportsman accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

ARTICLE 18 - PENSIONS

Subject to the provisions of paragraph 2 of Article 19, 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 19 - GOVERNMENT SERVICE

- 1 (a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or an administrative subdivision, central and local authorities or a statutory body thereof to an individual in respect of services rendered to that State or administrative subdivision, central and local authorities or a statutory body shall be taxable only in that State.
- (b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
- 2 (a) Any pension paid by, or out of funds created by, a Contracting State or an administrative subdivision, central and local authorities or a statutory body thereof to an individual in respect of services rendered to that State or administrative subdivision, central and local authorities or a statutory body shall be taxable only in that State.
- (b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.
- 3 The provisions of Articles 15, 16, 17 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 or administrative subdivision, central and local authorities or a statutory body thereof.

ARTICLE 20 - STUDENTS AND TRAINEES

Payments which a student or trainee 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

Items of income which are not dealt with in the foregoing Articles and arising in a Contracting State may be taxed in that State.

ARTICLE 22 - ELIMINATION OF DOUBLE TAXATION

- 1 In the case of Kazakhstan, double taxation shall be avoided as follows:
- (a) Where a resident of Kazakhstan derives income which, in accordance with the provisions of this Agreement, may be taxed in Singapore, Kazakhstan shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in Singapore.
- The amount of the tax to be deducted pursuant to the above provision shall not exceed the tax which would have been charged on the same income in Kazakhstan under the rates applicable therein.
- (b) Where a resident of Kazakhstan derives income which, in accordance with the provisions of this Agreement, shall be taxable only in Singapore, Kazakhstan may include this income in the tax base but only for purposes of determining the rate of tax on such other income as is taxable in Kazakhstan.
- 2 In the case of Singapore, double taxation shall be avoided as follows:

Where a resident of Singapore derives income from Kazakhstan which, in accordance with the provisions of this Agreement, may be taxed in Kazakhstan, 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 Kazakhstan tax paid, whether directly or by deduction, as a credit against the Singapore tax payable on the income of that resident. Where such income is a dividend paid by a company which is a resident of Kazakhstan 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 Kazakhstan tax paid by that company on the portion of its profits out of which the dividend is paid.

ARTICLE 23 - 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, in particular with respect to residence, 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.
- 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 as may be specified in the taxation laws of that State.

4 Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned 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.

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

ARTICLE 24 - 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 23, to that of the Contracting State of which he is a national. The case must be presented within 3 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 this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

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

ARTICLE 25 - 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 so 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 information, the disclosure of which would be contrary to public policy (ordre public).

ARTICLE 26 - MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

ARTICLE 27 - ENTRY INTO FORCE

1 Each of the Contracting States shall notify the other that the domestic legal procedures required for the entry into force of this Agreement have been complied with.

2 The Agreement shall enter into force on the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect:

- (a) in Kazakhstan:

in respect of taxes for the taxable periods beginning on or after 1 January of the calendar year next following that in which the Agreement enters into force;
- (b) in Singapore:

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

ARTICLE 28 - TERMINATION

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate this Agreement, through diplomatic channels, by giving notice of termination at least 6 months before the end of any calendar year after the

expiration of a period of 5 years from the date on which the Agreement enters into force. In such event, the Agreement shall cease to have effect:

(a) in Kazakhstan:

in respect of taxes for the taxable periods beginning on or after 1 January of the calendar year next following that in which the notice is given;

(b) in Singapore:

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

ARTICLE 29 - AMENDMENTS

By the mutual consent of the Contracting States, modifications and additions to this Agreement can be made by protocols, which shall form integral parts of this Agreement.

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

DONE in duplicate at Singapore on this 19th day of September 2006 in the Kazakh, English and Russian languages, all texts being equally authentic. In case of divergence in the interpretation of the provisions of the present Agreement, the English text shall prevail.

**For the Government of
the Republic of Singapore**

**For the Government of
the Republic of Kazakhstan**

PROTOCOL

At the moment of signing the Agreement between the Government of the Republic of Singapore and the Government of the Republic of Kazakhstan for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, both Governments have agreed upon the following provisions which shall form an integral part of the Agreement.

1. With reference to Article 5:

- (a) For the purposes of paragraph 2(f), the term “any other place of extraction of natural resources” also includes a drilling rig, a ship, an installation structure or equipment, if such rig, ship, structure or equipment, as the case may be, is used for the extraction of natural resources.
- (b) For the purposes of paragraph 3(c), projects are considered connected when two parts of activity constitute a coherent whole commercially and geographically.

2. With reference to paragraph 2 of Article 11 and paragraph 2 of Article 12:

If under any Convention, Agreement or Protocol concluded between Kazakhstan and a third State after the date of entry into force of this Agreement, Kazakhstan limits its taxation at source on interest and royalties to a rate lower than the rate provided for in this Agreement on the said items of income, the same rate (hereinafter referred to as the “revised rate”) as provided for in that Convention, Agreement or Protocol with that third State on the said items of income shall also apply under this Agreement with effect from the date of entry into force of that Convention, Agreement or Protocol with that

third State, or of this Agreement, whichever is the later. In such a case, the revised rate shall apply to both Singapore and Kazakhstan for the purposes of paragraph 2 of Articles 11 and 12, as the case may be.

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

DONE in duplicate at Singapore on this 19th day of September 2006 in the Kazakh, English and Russian languages, all texts being equally authentic. In case of divergence in the interpretation of the provisions of the present Protocol, the English text shall prevail.

**For the Government of
the Republic of Singapore**

**For the Government of
the Republic of Kazakhstan**