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INCOME TAX ACT
(CHAPTER 134)

INCOME TAX
(SINGAPORE — ECUADOR)
(AVOIDANCE OF DOUBLE TAXATION AGREEMENT)
ORDER 2015

WHEREAS it is provided by section 49 of the Income Tax Act that if the Minister by order declares that arrangements specified in the order have been made with the government of any country outside Singapore with a view to affording relief from double taxation in relation to tax under the Act and any tax of a similar character imposed by the laws of that country, and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to tax under the Act notwithstanding anything in any written law:

AND WHEREAS by an Agreement dated 27 June 2013, between the Government of the Republic of Singapore and the Government of the Republic of Ecuador, arrangements were made, amongst other things, for the avoidance of double taxation:

AND WHEREAS by a Protocol dated 27 June 2013, between the Government of the Republic of Singapore and the Government of the Republic of Ecuador, the arrangements set out in the said Agreement were modified as prescribed in the said Protocol:

NOW, THEREFORE, it is declared by the Minister for Finance —

- (a) that the arrangements specified in the Schedule to this Order have been made with the Government of the Republic of Ecuador; and
- (b) that it is expedient that those arrangements should have effect notwithstanding anything in any written law.

THE SCHEDULE

AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE

AND

THE GOVERNMENT OF THE REPUBLIC OF ECUADOR

FOR

THE AVOIDANCE OF DOUBLE TAXATION

AND

THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

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

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:

CHAPTER I

SCOPE OF THE AGREEMENT

ARTICLE 1

PERSONS COVERED

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

ARTICLE 2

TAXES COVERED

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

THE SCHEDULE — *continued*

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

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

(a) in Singapore:

— the income tax

(hereinafter referred to as “Singapore tax”);

(b) in Ecuador:

— the income tax

(hereinafter referred to as “Ecuador 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 by the end of each year of any significant changes that have been made in their taxation laws.

CHAPTER II

DEFINITIONS

ARTICLE 3

GENERAL DEFINITIONS

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

(a) the term “Singapore” means the Republic of Singapore and, when used in a geographical sense, includes its land territory, internal waters and territorial sea, as well as any maritime area situated beyond the territorial sea which has been or might in the future be designated under its national law, in accordance with international law, as an area within which Singapore may exercise sovereign rights or jurisdiction with regards to the sea, the sea-bed, the subsoil and the natural resources;

(b) the term “Ecuador” means the Republic of Ecuador and when used in a geographical sense, includes its territorial sea thereof, subsoil and other territories over which Ecuador exercises sovereignty, sovereign rights or jurisdiction in accordance with its local and international laws;

(c) the terms “a Contracting State” and “the other Contracting State” mean, as the context requires, Singapore or Ecuador;

THE SCHEDULE — *continued*

- (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 that 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 “competent authority” means:
 - (i) in the case of Singapore, the Minister for Finance or his authorised representative;
 - (ii) in the case of Ecuador, the General Director of the Internal Revenue Service (Servicio de Rentas Internas) or his authorised representative;
- (i) the term “national”, in relation to a Contracting State, means:
 - (i) any individual possessing the nationality or citizenship of that Contracting State; and
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State.

2. As regards the application of the 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, place of incorporation or any other criterion of a similar nature, and also includes that State and any political subdivision, local authority or statutory body thereof.

THE SCHEDULE — *continued*

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 only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (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 only of the State in which he has an habitual abode;
- (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
- (d) 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 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement and determine the mode of application of the Agreement to such person. In the absence of such agreement, such person shall not be considered to be a resident of either Contracting State for purposes of enjoying benefits under the 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; and
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

THE SCHEDULE — *continued*

3. The term “permanent establishment” also encompasses:
- (a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only if such site, project or activities last more than 9 months;
 - (b) 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 if activities of that nature continue (for the same or a connected project) within the other Contracting State for a period or periods aggregating more than 183 days in any twelve-month period commencing or ending in the fiscal year concerned.
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 7 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.

THE SCHEDULE — *continued*

6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.

7. 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 and that in their commercial or financial relations with the enterprise, conditions are not made or imposed that differ from those generally agreed to by independent agents.

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

CHAPTER III

TAXATION OF INCOME

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, mineral, oil and forestry exploitations, 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.

THE SCHEDULE — *continued*

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 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. 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, 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.

THE SCHEDULE — *continued*

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

ARTICLE 8

SHIPPING AND AIR TRANSPORT

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

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.

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

- (a) profits from the rental on a bareboat basis of ships or aircraft;
- (b) profits from the use or rental of containers (including trailers and related equipment for the transport of containers), used for the transport of goods or merchandise; and
- (c) interest on funds connected directly with the operations of ships or aircraft;

where such rental or such use or rental or such interest, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

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.

THE SCHEDULE — *continued*

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 5 per cent of the gross amount of the dividends. 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 paragraph 2, dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State shall be taxable only in that other State if the beneficial owner of the dividends is:

- (a) in the case of Singapore,
 - (i) the Government of Singapore;
 - (ii) the Monetary Authority of Singapore;
 - (iii) the Government of Singapore Investment Corporation Pte Ltd;
 - (iv) a statutory body; and
 - (v) any institution wholly owned by the Government of Singapore as may be agreed from time to time between the competent authorities of the Contracting States.
- (b) in the case of Ecuador,
 - (i) the Government of Ecuador, a political subdivision or a local authority;
 - (ii) the Central Bank of Ecuador;

THE SCHEDULE — *continued*

- (iii) any institution wholly owned by the Government of Ecuador as may be agreed from time to time between the competent authorities of the Contracting States.

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

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

6. Where a company which is a resident of a Contracting State derives 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 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if the beneficial owner of the interest is:

THE SCHEDULE — *continued*

- (a) in the case of Singapore,
- (i) the Government of Singapore;
 - (ii) the Monetary Authority of Singapore;
 - (iii) the Government of Singapore Investment Corporation Pte Ltd;
 - (iv) a statutory body;
 - (v) a financial institution in Singapore; and
 - (vi) any institution wholly owned by the Government of Singapore as may be agreed from time to time between the competent authorities of the Contracting States.
- (b) in the case of Ecuador,
- (i) the Government of Ecuador, a political subdivision or a local authority;
 - (ii) the Central Bank of Ecuador;
 - (iii) a financial institution in Ecuador; and
 - (iv) any institution wholly owned by the Government of Ecuador 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 securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as any other income that is subjected to the same taxation treatment as income from money lent by the taxation law of the Contracting State in which the income arises, but does not include any income which is treated as a dividend under Article 10. 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 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

THE SCHEDULE — *continued*

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 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 cinematograph films, tapes and other means of reproduction of sound and image, patents, trademarks, designs or models, plans, secret formulas or processes, or other intangible property, including information concerning industrial, commercial or scientific experience, including the rights of plant varieties breeders, or for the use of, or the right to use industrial, commercial or scientific equipment.

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

5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether he

THE SCHEDULE — *continued*

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 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 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.

3. 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.

4. Gains derived by a resident of a Contracting State from the alienation of shares deriving 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.

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

THE SCHEDULE — *continued*

ARTICLE 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that 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 Contracting 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 Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve-month period; 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, accountants and auditors.

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 fiscal 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.

THE SCHEDULE — *continued*

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. 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 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 exercised in the other Contracting State may be taxed in that other State.

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

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a Contracting State by an artiste or a sportsman if the visit to that State is wholly supported by public funds of one or both of the Contracting States or political subdivisions or local authorities or statutory bodies thereof. In such case, the income shall be taxable only in the Contracting State in which the artiste or the sportsman is a resident.

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.

THE SCHEDULE — *continued*

ARTICLE 19

GOVERNMENT SERVICE

1.—(a) Salaries, wages and other similar remuneration paid by a Contracting State or a political subdivision, a local authority or a statutory body thereof to an individual in respect of services rendered to that State or subdivision or authority or 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) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority or a statutory body thereof to an individual in respect of services rendered to that State or subdivision, authority or body shall be taxable only in that State.

(b) However, such pensions and other similar remuneration 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, pensions and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority or a statutory body thereof.

ARTICLE 20

STUDENTS

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.

THE SCHEDULE — *continued*

ARTICLE 21

OTHER INCOME

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

CHAPTER IV

METHODS FOR ELIMINATION OF DOUBLE TAXATION

ARTICLE 22

ELIMINATION OF DOUBLE TAXATION

1. In Singapore, double taxation shall be avoided as follows:

Where a resident of Singapore derives income from Ecuador which, in accordance with the provisions of this Agreement, may be taxed in Ecuador, 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 Ecuadorian 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 Ecuador 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 Ecuadorian tax paid by that company on the portion of its profits out of which the dividend is paid.

2. In Ecuador, double taxation shall be avoided as follows:

- (a) Where a resident of Ecuador derives income which, in accordance with the provisions of this Agreement, may be taxed in Singapore, Ecuador shall, subject to the provisions of sub-paragraphs (b) and (c), exempt such income from tax.
- (b) Where a resident of Ecuador derives items of income which, in accordance with the provisions of Articles 10, 11 and 12 may be taxed in Singapore, Ecuador shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Singapore. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from Singapore.
- (c) Where in accordance with any provision of this Agreement income derived by a resident of Ecuador is exempt from tax in Ecuador, Ecuador

THE SCHEDULE — *continued*

may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

- (d) The provisions of sub-paragraph (a) shall not apply to income derived by a resident of Ecuador where Singapore applies the provisions of this Agreement to exempt such income from tax or applies the provisions of paragraph 2 of Article 10, 11 or 12 to such income.

CHAPTER V

SPECIAL PROVISIONS

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 taxation purposes on account of civil status or family responsibilities 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 individuals as may be specified in the taxation laws of that State.

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.

THE SCHEDULE — *continued*

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. 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.

7. The provisions of this Article shall apply to the taxes which are the subject of this Agreement.

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 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 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.

THE SCHEDULE — *continued*

ARTICLE 25

EXCHANGE OF INFORMATION

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

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

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

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

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

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information

THE SCHEDULE — *continued*

is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

ARTICLE 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

MISCELLANEOUS PROVISIONS

1. Residents of any Contracting State shall not invoke the existence of this Agreement to justify the non compliance of formal obligations and requirements as provided in the domestic law of each Contracting State.

2. 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.

3. The Contracting States understand that their domestic rules and procedures with respect to the abuses of law (including tax treaties) may be applied to the treatment of such abuses.

4. The provisions of Articles 10, 11 and 12 shall not apply if it was the main purpose of any person concerned with the creation or assignment of shares or other rights in respect of which the dividends are paid, the creation or assignment of the debt-claim in respect of which the interest is paid, the creation or assignment of rights in respect of which the royalties are paid, to take advantage of these Articles by means of that creation or assignment.

5. Notwithstanding the provisions of any Article of this Agreement, a resident of a Contracting State shall not receive the benefit of any reduction in or exemption from tax provided for in the Agreement by the other Contracting State if the conduct of operations by such resident or any person concerned with the operations had for main purpose to obtain the benefits of this Agreement.

THE SCHEDULE — *continued*

CHAPTER VI
FINAL PROVISIONS

ARTICLE 28
ENTRY INTO FORCE

1. Each Contracting State shall notify the other, through diplomatic channels, compliance with the procedures for the entry into force of this Agreement.

2. This Agreement shall enter into force on the date of the last notification and its provisions shall have effect:

(a) in Singapore:

- (i) in respect of taxes withheld at source on amounts liable to be paid, deemed paid or paid (whichever is the earliest) on or after the first day of January of the calendar year next following the year in which the Agreement enters into force; and
- (ii) in respect of tax chargeable (other than taxes withheld at source) for any year of assessment beginning on or after the first day of January in the second calendar year following the year in which the Agreement enters into force.

(b) in Ecuador:

in respect of taxes on income obtained and amounts to be paid, credited to account, make available or recorded as an expense, from the first day of January of the calendar year immediately following the year on which the Agreement enters into force.

(c) in Singapore and Ecuador:

in respect of Article 25 (Exchange of Information), for requests made on or after the date of entry into force concerning information for taxes relating to taxable periods beginning on or after the first day of January of the calendar year next following the year in which the Agreement enters into force; or where there is no taxable period, for all charges to tax arising on or after the first day of January of the calendar year next following the year in which the Agreement enters into force.

ARTICLE 29
TERMINATION

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic

THE SCHEDULE — *continued*

channels, by giving notice of termination at least 6 months before the end of any calendar year after the expiration of a period of five years from the date of its entry into force. In such event, the Agreement shall cease to have effect:

(a) in Singapore:

- (i) in respect of taxes withheld at source on amounts liable to be paid, deemed paid or paid (whichever is the earliest) after the end of that calendar year in which the notice is given;
- (ii) in respect of tax chargeable (other than taxes withheld at source) for any year of assessment beginning on or after the first day of January in the second calendar year following the year in which the notice is given; and
- (iii) in all other cases, including requests made under Article 25, after the end of that calendar year in which the notice is given.

(b) in Ecuador:

- (i) in respect of taxes on income obtained and amounts to be paid, credited to account, made available or recorded as an expense, from the first day of January of the immediately following calendar year; and
- (ii) in all other cases, including requests made under Article 25, after the end of that calendar year in which the notice is given.

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

DONE in Singapore on this 27th day of June 2013, in two originals, in the English and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF
THE REPUBLIC OF SINGAPORE

FOR THE GOVERNMENT OF
THE REPUBLIC OF ECUADOR

K SHANMUGAM
*Minister for Foreign Affairs
and Minister for Law*

RICARDO PATINO AROCA
*Minister for Foreign Affairs
and Human Mobility*

PROTOCOL

At the moment of signing the Agreement between the Government of the Republic of Singapore and the Government of the Republic of Ecuador for the avoidance of double taxation and the prevention of fiscal evasion with respect to

THE SCHEDULE — *continued*

taxes on income, the undersigned have agreed upon the following provisions which shall have an integral part of the Agreement:

1. With reference to this Agreement:

In the case of Singapore, the term “statutory body” means a body constituted by any statute of Singapore and performing non-commercial functions which would otherwise be performed by the Government of Singapore.

2. With reference to Article 4 (Resident):

It is understood that the term, “resident of a Contracting State”, in the case of Ecuador, does not include any person who is liable to tax in Ecuador in respect only of income from sources in Ecuador.

3. With reference to Article 5 (Permanent Establishment):

It is understood that paragraphs 4(a) and 4(b) of Article 5 (Permanent Establishment) shall not be applicable where:

(iii) the use of facilities is for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise and sale of such goods or merchandise; and

(iv) the maintenance of a stock of goods or merchandise belonging to the enterprise is for the purpose of storage, display or delivery and sale of such goods of merchandise.

4. With reference to Article 8 (Shipping and Air Transport):

(a) It is understood that Article 8 (Shipping and Air Transport) shall not be applicable in cases where the transport by ship or aircraft is operated solely between places in a Contracting State.

(b) It is understood that profits from the operation of ships or aircraft in international traffic include profits from the maintenance of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise where such maintenance is incidental to the operation of ships or aircraft in international traffic.

5. With reference Article 17 (Artistes and Sportsmen):

It is understood that Article 17 (Artistes and Sportsmen) shall be applicable to any income derived by a resident of a Contracting State from his personal activities exercised in the other Contracting State if such activities relate to his reputation as an entertainer or sportsman.

6. With reference to Article 23 (Non-Discrimination):

THE SCHEDULE — *continued*

It is understood that notwithstanding paragraph 4 of Article 23 (Non-Discrimination), for the purposes of allowing deduction of an interest payment to a non-resident, nothing in the said paragraph shall prevent a Contracting State from disallowing a deduction of such interest payment if tax is not withheld on the payment.

7. With reference to Article 25 (Exchange of Information):

(a) It is understood that the competent authority of the requesting State shall provide the following information to the competent authority of the requested State when making a request for information under this Agreement to demonstrate the foreseeable relevance of the information to the request:

- (i) the identity of the person under examination or investigation;
- (ii) a statement of the information sought including its nature and the form in which the requesting State wishes to receive the information from the requested State;
- (iii) the taxable period with respect to which the information is requested;
- (iv) the tax purpose for which the information is sought;
- (v) grounds for believing that the information requested is held in the requested State or is in the possession or control of a person within the jurisdiction of the requested State;
- (vi) to the extent known, the name and address of any person believed to be in possession of the requested information;
- (vii) a statement that the request is in conformity with the law and administrative practices of the requesting State, that if the requested information was within the jurisdiction of the requesting State then the competent authority of the requesting State would be able to obtain the information under the laws of the requesting State or in the normal course of administrative practice and that it is in conformity with this Agreement;
- (viii) a statement that the requesting State has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties;
- (ix) any other information that may assist in giving effect to the request.

(b) It is understood that the competent authority of the requested State shall forward the requested information as promptly as possible to the

THE SCHEDULE — *continued*

requesting State. To ensure a prompt response, the competent authority of the requested State shall:

- (i) confirm receipt of a request in writing to the competent authority of the requesting State and shall notify the competent authority of the requesting State of deficiencies in the request, if any, within 60 days of the receipt of the request; and
- (ii) if the competent authority of the requested State has been unable to obtain and provide the information within 90 days of receipt of the request, including if it encounters obstacles in furnishing the information or it refuses to furnish the information, it shall immediately inform the requesting State, explaining the reason for its inability, the nature of the obstacles or the reasons for its refusal.

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

DONE at Singapore on this 27th day of June 2013, in two originals, in the English and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF
THE REPUBLIC OF SINGAPORE

FOR THE GOVERNMENT OF
THE REPUBLIC OF ECUADOR

K SHANMUGAM
*Minister for Foreign Affairs
and Minister for Law*

RICARDO PATINO AROCA
*Minister for Foreign Affairs
and Human Mobility*

Made on 14 December 2015.

LIM SOO HOON
*Permanent Secretary
(Finance) (Performance),
Ministry of Finance,
Singapore.*

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