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SINGAPORE



Treaty Series No. 10 (1979)

Protocol

amending the Agreement between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of the Republic of Singapore for the
Avoidance of Double Taxation and the Prevention of
Fiscal Evasion with respect to Taxes on Income, signed
at Singapore on 1 December 1966
(with amending Exchanges of Notes at Singapore
dated 23 May/23 July 1977)

London, 21 July 1975

[The Protocol entered into force on 31 May 1978]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
February 1979*

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PROTOCOL
AMENDING THE AGREEMENT BETWEEN THE GOVERNMENT
OF THE UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND AND THE GOVERNMENT OF THE
REPUBLIC OF SINGAPORE FOR THE AVOIDANCE OF DOUBLE
TAXATION AND THE PREVENTION OF FISCAL EVASION WITH
RESPECT TO TAXES ON INCOME, SIGNED AT SINGAPORE ON
1 DECEMBER 1966

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Singapore;

Desiring to conclude a Protocol to amend the Agreement between the Contracting Governments for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at Singapore on 1 December, 1966⁽¹⁾ (hereinafter referred to as "the Agreement");

Have agreed as follows:

ARTICLE I

Article 6 of the Agreement shall be deleted and replaced by the following:

"ARTICLE 6

(1) Profits which an enterprise of one of the Contracting States derives from the operation of ships or aircraft in international traffic in respect of carriage of passengers, mails, livestock or goods shall be exempt from tax in the other Contracting State.

(2) The term "international traffic" means all movements by a ship or aircraft operated by an enterprise of one of the Contracting States, other than movements solely between places in the other Contracting State or solely between such places and one or more structures used for the exploration or extraction of natural resources situated in waters adjacent to the territorial waters of that other Contracting State.

(3) This Article shall likewise apply to the share in respect of participation in shipping or aircraft pools of any kind by such enterprise engaged in shipping or air transport."

ARTICLE II

Article 7 of the Agreement shall be deleted and replaced by the following:

"ARTICLE 7

(1) Dividends paid by a company which is a resident of the United Kingdom to a resident of Singapore may be taxed in Singapore. If the

⁽¹⁾ Treaty Series No. 29 (1967), Cmnd. 3262.

recipient of the dividends is subject to Singapore tax in respect thereof they shall be exempt from any tax in the United Kingdom which is chargeable on dividends in addition to the tax chargeable in respect of the profits or income of the company.

(2) However, as long as an individual resident in the United Kingdom is entitled to a tax credit in respect of dividends paid by a company resident in the United Kingdom, the following provisions of this paragraph shall apply instead of the provisions of paragraph (1) of this Article:

(a) (i) Where dividends are paid by a company which is a resident of the United Kingdom to a resident of Singapore, tax may be charged in Singapore on the aggregate of the amount or value of the dividends and the amount of the tax credit (if any) to which the recipient is entitled under sub-paragraph (b) of this paragraph.

(ii) Where a resident of Singapore is entitled to a tax credit in respect of such a dividend under sub-paragraph (b) of this paragraph tax may also be charged in the United Kingdom, and according to the laws of the United Kingdom, on the aggregate of the amount or value of that dividend and the amount of that tax credit, but, if he is subject to tax in Singapore on that aggregate, the United Kingdom tax shall be charged at a rate not exceeding 15 per cent.

(iii) Except as aforesaid dividends paid by a company which is a resident of the United Kingdom to a resident of Singapore who is subject to tax in Singapore in respect thereof shall be exempt from any tax in the United Kingdom which is chargeable on dividends.

(b) A resident of Singapore who receives dividends from a company which is a resident of the United Kingdom shall, subject to the provisions of sub-paragraph (c) of this paragraph and provided he is subject to tax in Singapore on the dividends, be entitled to the tax credit in respect thereof to which an individual resident in the United Kingdom would have been entitled had he received those dividends, and to the payment of any excess of that tax credit over his liability to United Kingdom tax.

(c) The provisions of sub-paragraph (b) of this paragraph shall not apply where the recipient of the dividend is a company which either alone or together with one or more associated companies controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend. For the purpose of this paragraph two companies shall be deemed to be associated if one is controlled directly or indirectly by the other, or both are controlled directly or indirectly by a third company.

(3) Dividends paid by a company which is a resident of Singapore to a resident of the United Kingdom may be taxed in the United Kingdom. If the recipient of the dividends is subject to United Kingdom tax in respect thereof they shall be exempt from any tax in Singapore which is chargeable on dividends in addition to the tax chargeable in respect of the profits or income of the company.

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

(4) Where a company which is a resident of one of the Contracting States derives income or profits from the other Contracting State, there shall not be imposed in that other Contracting State any form of taxation on dividends paid by the company to persons not resident in that other Contracting State or any tax in the nature of an undistributed profits tax on undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

(5) The provision of paragraphs (1), (2) and (3) of this Article shall not apply where a resident of one of the Contracting States has in the other Contracting State a permanent establishment and the holding by virtue of which the dividends are paid is effectively connected with the business carried on through such permanent establishment. In such a case the dividends shall be treated as if they were profits to which the provisions of Article 4 are applicable.

(6) For the purposes of this Agreement the term 'dividends' in the case of the United Kingdom includes any item which under the law of the United Kingdom is treated as a distribution of a company.

(7) If the recipient of the dividend is a company which owns 10 per cent or more of the class of shares in respect of which the dividend is paid then the provisions of paragraphs (1), (2) and (3) of this Article shall not apply to the dividend to the extent that it can have been paid only out of profits which the company paying the dividend earned or other income which it received in a period ending twelve months or more before the relevant date. For the purposes of this paragraph the term 'relevant date' means the date on which the recipient of the dividend became the owner of 10 per cent or more of the class of shares in question.

Provided that this paragraph shall not apply if the recipient of the dividend shows that the shares were acquired for bona fide commercial reasons and not primarily for the purpose of securing the benefit of this Article."

ARTICLE III

The following new Article shall be inserted immediately after Article 7 of the Agreement.

"ARTICLE 7A

(1) Subject to the provisions of paragraph (2) of this Article, interest derived from sources within one of the Contracting States by a resident of the other Contracting State who is subject to tax in respect thereof in

that other Contracting State may be taxed in the first-mentioned Contracting State at a rate not exceeding 15 per cent of the gross amount thereof.

(2) Approved interest derived from sources within Singapore by a resident of the United Kingdom who is subject to United Kingdom tax in respect thereof shall be exempt from Singapore tax.

3. The term 'interest' as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and other debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises. The term 'approved interest' as used in this Article means interest as defined in this paragraph which is payable on an approved foreign loan within the meaning of Part V of The Economic Expansion Incentives (Relief from Income Tax) Act (1970 Edition) of Singapore and which is certified by the competent authorities of Singapore as payable for the purposes of promoting industrial development in Singapore.

(4) The provisions of paragraphs (1) and (2) of this Article shall not apply if the recipient of the interest, being a resident of one of the Contracting States, has in the other Contracting State from which the interest is derived a permanent establishment with which the indebtedness from which the interest arises is effectively connected. In such a case the interest shall be treated as if it were profits to which the provisions of Article 4 are applicable.

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

(6) The provisions of this Article shall not apply if the loan or other indebtedness in respect of which the interest paid was created or assigned mainly for the purpose of taking advantage of this Article and not for bona fide commercial reasons."

ARTICLE IV

Article 8 of the Agreement shall be deleted and replaced by the following:

"ARTICLE 8

(1) Subject to the provisions of paragraph (2) of this Article, royalties derived from sources within one of the Contracting States by a resident of the other Contracting State who is subject to tax in that other Contracting State in respect thereof may be taxed in the first-mentioned Contracting State at a rate not exceeding 15 per cent of the gross amount thereof.

(2) Approved royalties derived from sources within Singapore by a resident of the United Kingdom who is subject to United Kingdom tax in respect thereof shall be exempt from Singapore tax.

(3) The term "royalties" as used in this Article means payments of any kind received as consideration for use of, or the right to use, any copyright, patent, trade mark, design, model, plan, secret formula or process or for the use of, or the right to use, industrial, commercial or scientific experience, but does not include any royalty or other amount paid in respect of motion picture films or tapes for telecasting or of the operation of a mine, oil well, quarry or any other place of extraction of natural resources. The term "approved royalties" as used in this Article means royalties as defined in this paragraph which are approved under Part VI of the Economic Expansion Incentives (Relief from Income Tax) Act (1970 Edition) of Singapore and which are certified by the competent authorities of Singapore as payable for the purpose of promoting industrial development in Singapore.

(4) The provisions of paragraphs (1) and (2) of this Article shall likewise apply to sums derived from sources within one of the Contracting States by a resident of the other Contracting State from the alienation of any right or property from which royalties or approved royalties, as the case may be, are or may be derived.

(5) The provisions of paragraphs (1), (2) and (4) of this Article shall not apply to royalties or sums received by a resident of one of the Contracting States where such royalties or sums are attributable to a permanent establishment of such resident in the other Contracting State; in such event such royalties or sums as are attributable to that permanent establishment shall be treated as if they were profits to which the provisions of Article 4 are applicable.

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

ARTICLE V

The words "any year of assessment" in paragraph (2) of Article 12 of the Agreement shall be deleted and replaced by the words "any calendar year".

ARTICLE VI

The words "Malaysian dollars" in sub-paragraph (3)(b) of Article 15 of the Agreement shall be deleted and placed by the words "Singapore dollars".

ARTICLE VII

Paragraph (a) of Article 17 of the Agreement shall be deleted and replaced by the following:

- “(a) (i) subject to sub-paragraphs (ii) and (iii) of this paragraph, dividends paid by a company which is a resident of one of the Contracting States shall be treated as income from sources within that Contracting State;
- (ii) dividends paid by a company which is a resident of Malaysia shall be treated as income from sources within Singapore if they are deemed to be derived from Singapore in accordance with Article VII of the Agreement between the Government of the Republic of Singapore and the Government of Malaysia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed in Singapore on 26 December, 1968;
- (iii) dividends paid by a company which is a resident of Singapore shall not be treated as income from sources within Singapore if they are deemed to be derived from Malaysia in accordance with Article VII of the Agreement between the Government of the Republic of Singapore and the Government of Malaysia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed in Singapore on 26 December, 1968.

Provided that if the Agreement referred to in sub-paragraph (ii) and (iii) of this paragraph is amended or ceases to have effect, the competent authorities of the United Kingdom and Singapore shall consult together to devise appropriate rules.”

ARTICLE VIII

Article 18 of the Agreement shall be deleted and replaced by the following:

“ARTICLE 18

(1) The laws of the United Kingdom and Singapore shall continue to govern the taxation of income arising in either Contracting State except where express provision to the contrary is made in this Agreement. Where income is subject to tax in both Contracting States, relief from double taxation shall be given in accordance with the following paragraphs of this Article.

(2) (a) Subject to the provisions of the laws of Singapore regarding the allowance as a credit against Singapore tax of tax payable in any country other than Singapore and subject to sub-paragraph (b) of this paragraph, United Kingdom tax payable, whether directly or by deduction in respect of income from sources within the United Kingdom, shall be allowed as a credit against Singapore tax payable in respect of that income.

(b) Where such income is a dividend paid by a company which is a resident of the United Kingdom the credit shall take into account only United Kingdom tax chargeable specifically on the dividend other than the tax chargeable in respect of the profits or income of the company. Where however, the dividend is paid to a company which is a resident of Singapore and which controls directly or indirectly not less than 10 per cent of the voting power in the United Kingdom company, the credit shall take into account (in addition to any United Kingdom income tax chargeable specifically on the dividend) the United Kingdom tax payable in respect of its profits by the company paying the dividend.

(3)(a) Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom and subject to subparagraph (b) of this paragraph, Singapore tax payable under the laws of Singapore and in accordance with this Agreement, whether directly or by deduction, on income from sources within Singapore shall be allowed as a credit against any United Kingdom tax computed by reference to the same income by reference to which the Singapore tax is computed.

(b) Where such income is a dividend paid by a company which is a resident of Singapore the credit shall only take into account such tax in respect thereof as is additional to any tax payable by the company on the profits out of which the dividend is paid and is ultimately borne by the recipient without reference to any tax so payable. Where, however, the dividend is paid to a company which is a resident of the United Kingdom and which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend, the credit shall take into account (in addition to any Singapore tax appropriate to the dividend) the Singapore tax payable in respect of its profits by the company paying the dividend.

(4) For the purposes of paragraph (3) of this Article, the term "Singapore tax payable" shall be deemed to include any amount which would have been payable as Singapore tax for any year but for an exemption or reduction of tax granted for that year or any part thereof under—

(i) Parts II, III and IV of the Economic Expansion Incentives (Relief from Income Tax) Act (1970 Edition) of Singapore (hereinafter referred to as "the Act") so far as they were in force on, and have not been modified since 21 July, 1975 (being the date of signature of the Protocol amending this Agreement), or have been modified only in minor respects so as not to affect their general character; or

(ii) any other provision which may subsequently be made granting an exemption or reduction of tax which is agreed by the competent authorities of the Contracting Governments to be of a substantially similar character, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general character.

Provided that where the relief is a relief accorded under Part IV of the Act it shall be taken into account for the purposes of this paragraph only (i) if the enterprise qualifying for the relief could have been declared to be a "pioneer enterprise" under Part II of the Act or an "expanding enterprise

under Part III of the Act, and (ii) to the extent that the relief is given in respect of income arising within the "tax relief period" as defined in Part II or Part III of the Act, as the case may be.

(5) For the purposes of paragraph (3) of this Article, the term "Singapore tax payable" shall also be deemed to include—

(a) in the case of approved interest to which paragraph (2) of Article 7A applies, an amount not exceeding a sum equivalent to tax at a rate of 15 per cent in respect of Singapore tax which would have been payable but for an exemption or reduction of tax granted under Part V of the Act; and

(b) in the case of approved royalties to which paragraph (2) of Article 8 applies, an amount not exceeding a sum equivalent to tax at a rate of 15 per cent in respect of Singapore tax which would have been payable but for an exemption or reduction of tax granted under Part VI of the Act.

(6) For the purposes of paragraphs (2) and (3) of this Article, remuneration or profits for personal (including professional) services shall be treated as derived from sources within the Contracting State in which are rendered the services for which such remuneration or profits are paid."

ARTICLE IX

(1) This Protocol, which shall form an integral part of the Agreement, shall come into force⁽²⁾ when the last of all such things shall have been done in the United Kingdom and Singapore as are necessary to give the Protocol the force of law in the United Kingdom and Singapore respectively, and shall, subject to paragraph (2) of this Article, thereupon have effect—

(a) in Singapore:

as respects income tax, for any year of assessment beginning on or after 1 January, 1973;

(b) in the United Kingdom:

(i) as respects income tax and capital gains tax, for any year of assessment beginning on or after 6 April, 1973;

(ii) as respects corporation tax, for any financial year beginning on or after 1 April, 1973.

(2) Where any greater relief from tax would have been afforded by any provision of the Agreement than is due under the Agreement as amended by this Protocol, any such provision as aforesaid shall continue to have effect for any year of assessment or financial year beginning before the entry into force of this Protocol.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Protocol.

Done in duplicate at London this 21st day of July, 1975.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

For the Government of the Republic of Singapore:

GORONWY-ROBERTS
OF CAERNARVON

LEE YONG LENG

⁽²⁾ The Protocol entered into force on 31 May 1978.

**EXCHANGE OF NOTES
AMENDING THE PROTOCOL OF 21 JULY 1975**

No. 1

*The United Kingdom High Commissioner at Singapore to the
Minister for Foreign Affairs of Singapore*

*British High Commission,
Singapore,*

23 May 1977.

Your Excellency,

I have the honour to refer to the Protocol signed in London on 21 July 1975, amending the Agreement of 1 December 1966 between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Singapore, for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income.

On the suggestion of the Government of the Republic of Singapore that the transitional arrangements in the Protocol be extended, I propose that the following amendment be made:

Paragraph (2) of Article IX of the Protocol shall read:

“(2) Where any greater relief from tax would have been afforded by any provision of the Agreement than is due under the Agreement as amended by this Protocol, any such provision as aforesaid shall continue to have effect for any year of assessment or financial year beginning before 31 December 1978.”

I have the honour to suggest that, if this proposal is acceptable to the Government of the Republic of Singapore, this Note and your reply to that effect shall constitute an Agreement between our two Governments in this respect.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

PETER TRIPP,
High Commissioner.

No. 2

*The Minister for Foreign Affairs of Singapore to the
United Kingdom High Commissioner at Singapore*

*Ministry for Foreign Affairs,
Singapore.*

23 July 1977.

Your Excellency,

I have the honour to acknowledge receipt of your Note dated 23 May 1977 which reads as follows:

[As in No. 1]

I have the honour to confirm that the foregoing proposal is acceptable to the Government of the Republic of Singapore and that they agree that your Note and this reply shall constitute an Agreement between our two Governments in this respect.

Please accept, Your Excellency, the renewed assurances of my highest consideration.

S. RAJARATNAM,

Minister for Foreign Affairs.