No. 11407

NETHERLANDS
and
SINGAPORE

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital (with protocol). Signed at Singapore on 19 February 1971

Authentic texts: Dutch and English.

Registered by the Netherlands on 12 November 1971.

PAYS-BAS
et
SINGAPOUR

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et d'impôts sur la fortune (avec protocole). Signée à Singapour le 19 février 1971

Textes authentiques: néerlandais et anglais.

Enregistrée par les Pays-Bas le 12 novembre 1971.

CONVENTION [1] BETWEEN THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS 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 AND ON CAPITAL

The Government of the Kingdom of the Netherlands and the Government of the Republic of Singapore,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,

Have agreed as follows:

Article 1

TAXES COVERED

1. This Convention shall apply to taxes on income and on capital imposed on behalf of each of the States irrespective of the manner in which they are levied.

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

3. The existing taxes to which this Convention shall apply are, in particular —

(*a*) in the case of the Netherlands:

— the income tax (*de inkomstenbelasting*),

— the wages tax (*de loonbelasting*),

[1] Came into force on 31 August 1971, the date on which the respective Governments had notified each other in writing that in their respective States the last of all such things had been done as were necessary to give it the force of law, in accordance with article 29.

— the company tax (*de vennootschapsbelasting*),

— the dividend tax (*de dividendbelasting*),

— the tax on fees of directors of companies (*de commissarissenbelasting*),

— the capital tax (*de vermogensbelasting*),
(hereinafter referred to as "Netherlands tax");

(*b*) in the case of Singapore:

— the income tax,
(hereinafter referred to as " Singapore tax ").

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

Article 2

GENERAL DEFINITIONS

1. In this Convention, unless the context otherwise requires—

(*a*) the term " State " means the Netherlands or Singapore, as the context requires;

(*b*) the term " States " means the Netherlands and Singapore;

(*c*) the term " the Netherlands " comprises the part of the Kingdom of the Netherlands that is situated in Europe and the part of the seabed and its sub-soil under the North Sea, over which the Kingdom of the Netherlands has sovereign rights in accordance with international law;

(*d*) the term " Singapore " means the Republic of Singapore;

(*e*) the term " tax " means Netherlands tax or Singapore tax, as the context requires;

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

(*g*) the term " company " means any body corporate or any entity which is treated as a body corporate for tax purposes;

(*h*) the terms " enterprise of one of the States " and " enterprise of the other State " mean respectively an enterprise carried on by a resident of one of the States and an enterprise carried on by a resident of the other State;

(*i*) the term " competent authority " means

(i) in the Netherlands the Minister of Finance or his authorised representative;

(ii) in Singapore the Minister for Finance or his authorised representative.

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

Article 3

FISCAL DOMICILE

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

2. For the purposes of this Convention an individual, who is a member of a diplomatic or consular mission of one of the States in the other State or in a third State and who is a national of the sending State, shall be deemed to be a resident of the sending State if he is submitted therein to the same obligations in respect of taxes on income and on capital as are residents of that State.

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

(*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;

(*b*) if the State with which his personal and economic relations are closer 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, the competent authorities of the States shall settle the question by mutual agreement.

4. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both States, then it shall be deemed to be a resident of the State in which it is managed and controlled.

Article 4

PERMANENT ESTABLISHMENT

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

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

(*a*) a place of management;

(*b*) a branch;

(*c*) an office;

(*d*) a factory;

(*e*) a workshop;

(*f*) a farm or plantation;

(*g*) a mine, oil well, quarry or other place of extraction of natural resources;

(*h*) a building site or construction or assembly project which exists for more than six months.

3. The term " permanent establishment " shall not be deemed to include—

(*a*) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

(*b*) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

(*c*) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(*d*) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or for collecting information, for the enterprise;

(*e*) the maintenance of a fixed place of business solely for the prupose of advertising, for the supply of information, for scientific research or for

similar activities which have a preparatory or auxiliary character, for the enterprise.

4. A person acting in one of the States on behalf of an enterprise of the other State (other than an agent of an independent status to whom paragraph 6 applies) shall be deemed to be a permanent establishment in the first-mentioned State if—

(*a*) he has, and habitually exercises in the first-mentioned State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or

(*b*) he maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise.

5. An enterprise of one of the States shall be deemed to have a permanent establishment in the other State if it carries on supervisory activities in that other State for more than six months in connection with a construction, installation or assembly project which is being undertaken in that other State.

6. An enterprise of one of the States shall not be deemed to have a permanent establishment in the other State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such person is acting in the ordinary course of his business.

7. The fact that a company which is a resident of one of the States controls or is controlled by a company which is a resident of the other 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 5

LIMITATION OF RELIEF

Where under any provision of this Convention income is relieved from tax in one of the States and under the law in force in the other State, a person, in respect of the said income, is subject to tax by reference to the amount thereof which is remitted to or received in that other State and not by reference to the full amount thereof, then the relief to be allowed under this Convention in the

first-mentioned State shall apply only to so much of the income as is remitted to or received in the other State.

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income from immovable property may be taxed in the State in which such property is situated.

2. The term " immovable property " shall be defined in accordance with the law of the State in which the property in question is situated. The term shall in any case include rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits or other places of extraction of natural resources. Ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting or use in any other form of immovable property.

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

Article 7

BUSINESS PROFITS

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

2. Where an enterprise of one of the States carries on business in the other State through a permanent establishment situated therein, there shall in each State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the

same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses of the enterprise (other than expenses which would not be deductible if the permanent establishment were a separate enterprise) which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. No profits shall be attributed to a permanent establishment by reason of the mere purchase (including transportation) by that permanent establishment of goods or merchandise for the enterprise.

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

Article 8

SHIPPING AND AIR TRANSPORT

1. Notwithstanding the provisions of paragraphs 1 to 4 of Article 7, profits of an enterprise of one of the States from the operation of ships or aircraft in international traffic may be taxed in the other State, but only in so far as such profits are derived from that other State.

However, the rate of the tax chargeable under the law of that other State on such profits shall be reduced by 50 per cent thereof.

2. For the purposes of this Article —

(*a*) profits derived from the other State mean profits from the carriage of passengers, mails, livestock or goods shipped, or loaded into an aircraft in that State (excluding the profits accruing from passengers, mails, livestock or goods which are brought to that other State solely for transhipment, or for transfer from one aircraft to another or from an aircraft to a ship or from a ship to an aircraft);

(*b*) the amount of the profits so derived shall not exceed 5 per cent of the sums receivable in respect of the carriage of passengers, mails, livestock or goods shipped, or loaded into an aircraft in that State.

3. The provisions of paragraphs 1 and 2 shall likewise apply to profits arising from participations in shipping or aircraft pools of any kind by enterprises engaged in shipping or air transport.

Article 9

ASSOCIATED ENTERPRISES

Where —

(*a*) an enterprise of one of the States participates directly or indirectly in the management, control or capital of an enterprise of the other State, or

(*b*) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the States and an enterprise of the other State,

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

Article 10

DIVIDENDS

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

2. However, dividends paid by a company which is a resident of the Netherlands to a resident of Singapore may be taxed in the Netherlands, and according to Netherlands law, but the tax so charged shall not exceed 15 per cent of the gross amount of the dividends. Where, however, the recipient of the

dividends is a company the capital of which is wholly or partly divided into shares and which holds directly or indirectly at least 25 per cent of the capital of the company paying the dividends, the Netherlands shall not levy a tax on the dividends.

3. Dividends paid by a company which is a resident of Singapore to a resident of the Netherlands shall be exempt from any tax in Singapore which is chargeable on dividends in addition to the tax chargeable in respect of the profits of the company.

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

4. The provisions of paragraph 2 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, *jouissance* shares or *jouissance* rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident.

6. The provisions of paragraphs 1, 2 and 3 shall not apply if the recipient of the dividends, being a resident of one of the States, has in the other State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of Article 7 shall apply.

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

8. If the system of taxation applicable in either of the States to the profits and distributions of companies is substantially altered the competent authori-

ties may consult each other in order to determine whether it is necessary for this reason to amend the provisions of paragraphs 1, 2 and 3 of this Article.

Article 11

INTEREST

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

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

3. Notwithstanding the provisions of paragraph 2 the State in which the interest arises shall not levy a tax on interest paid to the Government of the other State. For the purposes of this paragraph the term " Government " shall include in the case of Singapore the Board of Commissioners of Currency.

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

5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being a resident of one of the States, has in the other State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the provisions of Article 7 shall apply.

6. Interest shall be deemed to arise in one of the States when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of one of the States or not, has in one of the States a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.

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

Article 12

ROYALTIES

1. Subject to the provisions of paragraph 6, royalties arising in one of the States and paid to a resident of the other State shall be taxable only in that other State.

2. Subject to the provisions of paragraph 6, sums from the alienation of any right or property giving rise to royalties shall be taxable only in the State of which the alienator is a resident.

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 scientific work, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

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

5. Where, owing to a special relationship between the payer and the recipient or between bot of them and some other person, the amount of the royalties 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, the provisions of the preceding paragraphs of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each State, due regard being had to the other provisions of this Convention.

6. This Convention shall not apply to payments of any kind received as a consideration for the use of, or for the right to use, any copyright of literary or artistic work, including motion picture films and tapes for television or broadcasting, or to sums from the alienation of any right or property giving rise to such payments.

Article 13

LIMITATION OF ARTICLES 10, 11 AND 12

International organisations, organs and officials thereof and members of a diplomatic or consular mission of a third State, being present in one of the States, are not entitled, in the other State, to the reductions or exemptions from tax provided for in Articles 10, 11 and 12 in respect of the items of income dealt with in these Articles and arising in that other State, if such items of income are not subject to a tax on income in the first-mentioned State.

Article 14

CAPITAL GAINS

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

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of one of the States has in the other State, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise), may be taxed in the other State.

3. Notwithstanding the provisions of paragraph 2, gains from the alienation of ships and aircraft operated in international traffic, and movable property pertaining to the operation of such ships and aircraft shall be taxable only in the State of which the person carrying on the enterprise is a resident.

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

5. Notwithstanding the provisions of paragraph 4, where a person owns 25 per cent or more of the share capital of a company dealing wholly or mainly with immovable property, the gains from the alienation of some or all of such shares may be taxed in the State where such immovable property is situated.

6. Unless otherwise provided in paragraph 5, the provisions of paragraph 4 shall not affect the right of each of the States to levy according to its own law a tax on gains from the alienation of shares or *jouissance* rights in a company the capital of which is wholly or partly divided into shares and which is a resident of that State, derived by an individual who is a resident of the other State, and has been a resident of the first-mentioned State in the course of the last five years preceding the alienation of the shares or "jouissance" rights.

Article 15

PERSONAL SERVICES

1. Subject to the provisions of Article 16, 18, 19 and 20, salaries, wages and other similar remuneration in respect of an employment as well as income in respect of professional services or other independent activities of a similar character, derived by a resident of one of the States, shall be taxable only in that State, unless the employment, services or activities are exercised or performed in the other State. If the employment, services or activities are so exercised or performed, such remuneration or income as is derived therefrom may be taxed in that other State.

2. Notwisthstanding the provisions of paragraph 1, remuneration or income, derived by a resident of one of the States in respect of an employment, services or activities exercised or performed in the other 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 the calendar year concerned; and

(*b*) the remuneration or income is paid by, or on behalf of, a person who is not a resident of the other State; and

(*c*) the remuneration or income is not borne by a permanent establishment which that person has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived by a resident of one of the States in respect of an employment exercised aboard a ship or aircraft in international traffic shall be taxable only in that State.

Article 16

DIRECTORS' FEES

1. Directors' fees and similar payments derived by a resident of the Netherlands in his capacity as a member of the board of directors of a company which is a resident of Singapore may be taxed in Singapore.

2. Remuneration and other payments derived by a resident of Singapore in his capacity as a *bestuurder* or a *commissaris* of a company which is a resident of the Netherlands may be taxed in the Netherlands.

Article 17

ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Article 15, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the State in which these activities are exercised. This also applies, notwithstanding the provisions of Article 7, if such income accrues to a person having engaged the public entertainers or athletes.

2. The provisions of paragraph 1 shall not apply, if the visit of the public entertainers or athletes to one of the States is substantially supported from the public funds of the other State or a political subdivision or a local authority thereof.

Article 18

PENSIONS

1. Subject to the provisions of Article 19, pensions and other similar remuneration paid in consideration of past employment to a resident of one of the States as well as any annuity paid to such a resident, shall be taxable only in that State.

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

3. The term " pension " means periodic payments made in consideration for services rendered or by way of compensation for injuries received.

Article 19

GOVERNMENTAL FUNCTIONS

1. Remuneration, including pensions, paid by, or out of funds created by, one of the States or a political subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof in the discharge of functions of a governmental nature may be taxed in that State.

2. However, the provisions of Articles 15, 16 and 18 shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business carried on by one of the States or a political subdivision or a local authority thereof.

3. Paragraph 1 shall not apply in so far as services are rendered to a State in the other State by a resident of that other State who is not a citizen or national of the first-mentioned State.

Article 20

STUDENTS

1. An individual who immediately before visiting one of the States is a resident of the other State and is temporarily present in the first-mentioned State for the primary purpose of—

(*a*) studying at a recognised university, college or school in that first-mentioned State; or

(*b*) securing training as a business apprentice;

shall be exempt from tax in the first-mentioned State in respect of

(i) all remittances from abroad or the purpose of his maintenance, education or training; and

(ii) any remuneration for personal services performed in the first-mentioned State in an amount not in excess of 3,000 Singapore dollars or 3,600 guilders, as the case may be, for any taxable year.

The benefits under this paragraph shall only extend for such period of time as may be reasonable or customarily required to effectuate the purpose of the visit.

2. An individual who immediately before visiting one of the States is a resident of the other State and is temporarily present in the first-mentioned State for a period not exceeding three years for the purpose of study, research or training solely as a recipient of a grant, allowance or award from a scientific, educational, religious or charitable organisation or under a technical assistance programme entered into by one of the States, a political subdivision or a local authority thereof shall be exempt from tax in the first-mentioned State on —

(*a*) the amount of such grant, allowance or award; and

(*b*) any remuneration for personal services performed in the first-mentioned State provided such services are in connection with his study, research or training or are incidental thereto, in an amount not in excess of 3,000 Singapore dollars or 3,600 guilders, as the case may be, for any taxable year.

3. An individual who immediately before visiting one of the States is a resident of the other State and is temporarily present in the first-mentioned State for a period not exceeding twelve months as an employee of, or under contract with, the last-mentioned State, a political subdivision or a local authority thereof, or an enterprise of the last-mentioned State, for the purpose of acquiring technical, professional or business experience from a person other than a company 50 per cent or more of the voting stock of which is owned

by the sending State, political subdivision, local authority or enterprise, shall be exempt from tax in the first-mentioned State on —

(*a*) all remittances from the last-mentioned State for the purpose of his maintenance, education or training; and

(*b*) any remuneration for personal services performed in the first-mentioned State, provided such services are in connection with his study or training or are incidental thereto, in an amount not in excess of 12,500 Singapore dollars or 15,000 guilders, as the case may be.

Article 21

INCOME NOT EXPRESSLY MENTIONED

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

Article 22

CAPITAL

1. Capital represented by immovable property, as defined in paragraph 2 of Article 6, may be taxed in the State in which such property is situated.

2. Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise may be taxed in the State in which the permanent establishment is situated.

3. Ships and aircraft operated in international traffic, and movable property pertaining to the operation of such ships and aircraft shall be taxable only in the State of which the person carrying on the enterprise is a resident.

4. All other elements of capital of a resident of one of the States shall be taxable only in that State.

Article 23

PERSONAL ALLOWANCES

1. Individuals who are residents of the Netherlands shall be intitled to the same personal allowances, reliefs and reductions for the purposes of Singapore tax as Singapore citizens not resident in Singapore.

2. Individuals who are residents of Singapore shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Netherlands tax as Netherlands nationals resident in Singapore.

Article 24

ELIMINATION OF DOUBLE TAXATION

1. The Netherlands, when imposing tax on its residents, may include in the basis upon which such taxes are imposed the items of income or capital, which according to the provisions of this Convention may be taxed in Singapore.

2. Without prejudice to the application of the provisions concerning the compensation of losses in the unilateral regulations for the avoidance of double taxation the Netherlands shall allow a deduction from the amount of tax computed in conformity with paragraph 1 of this Article equal to such part of that tax which bears the same proportion to the aforesaid tax, as the part of the income or capital which is included in the basis mentioned in paragraph 1 of this Article and may be taxed in Singapore according to Articles 6, 7, 10 (paragraph 6), 11 (paragraph 5), 12 (paragraph 4), 14 (paragraphs 1, 2 and 5), 15 (paragraph 1), 16 (paragraph 1), 17, 19 (paragraph 1) and 22 (paragraphs 1 and 2) of this Convention bears to the total income or capital which forms the basis mentioned in paragraph 1 of this Article.

3. Further the Netherlands shall allow deductions from the tax computed in accordance with the preceding paragraphs of this Article with respect to —

(*a*) the items of income which may be taxed in Singapore according to Articles 8, 11 (paragraph 2) and 14 (paragraph 6) and are included in the basis mentioned in paragraph 1 of this Article; and

(*b*) royalties as defined in Article 12 (paragraph 3) and which arise in Singapore.

4. Subject to the provisions of paragraph 5 of this Article, the amount of the deductions mentioned in paragraph 3 shall be —

(*a*) with respect to the items of income which may be taxed in Singapore according to Articles 8 and 14 (paragraph 6) an amount equal to the Singapore tax thereon;

(*b*) with respect to interest arising in Singapore an amount equal to the amount of tax which Singapore actually has levied thereon increased by twice the difference between this amount and 10 per cent of the amount of the interest;

(*c*) with respect to royalties arising in Singapore an amount equal to 20 per cent of the amount of the royalties.

However, the deductions mentioned in sub-paragraphs (*b*) and (*c*) shall not exceed 50 per cent of the amount of the tax on the interest of the royalties, respectively, which Singapore would have levied according to its laws in the absence of this Convention and in the absence of the specific measures provided for in Parts V and VI of the Economic Expansion Incentives (Relief from Income Tax) Act, 1967, or any other provision which may subsequently be made granting relief which is agreed by the competent authorities to be of a substantially similar character.

5. The amount of the deductions mentioned in paragraph 3 of this Article shall not exceed the amount of the Netherlands tax which bears the same proportion to the amount of tax computed in conformity with paragraph 1 of this Article, as the amount of the items of income mentioned in paragraph 3 bears to the amount of income which forms the basis mentioned in paragraph 1.

6. 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 (which shall not affect the general principle hereof) —

(*a*) Netherlands tax payable under the laws of the Netherlands and in accordance with this Convention, whether directly of by deduction in respect of income from sources within the Netherlands, shall be allowed as a credit against Singapore tax payable in respect of that income.

(*b*) In the case of a dividend paid by a company which is a resident of the Netherlands to a company which is a resident of Singapore and which owns directly or indirectly at least 25 per cent of the share capital in the first-mentioned company the credit shall take into account (in addition to any Netherlands tax on dividends) the Netherlands company tax payable in respect of its profits by the company paying the dividends.

7. For the purposes of paragraph 6 of this Article, income and gains derived by a resident of Singapore which may be taxed in the Netherlands in accordance with this Convention shall be deemed to arise from sources in the Netherlands.

Article 25

NON-DISCRIMINATION

1. The citizens or nationals of one of the States shall not be subjected in the other State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which citizens or nationals of that other State in the same circumstances are or may be subjected.

2. The term "citizens or nationals" means —

(*a*) in the case of Singapore, all individuals possessing the citizenship of Singapore and all legal persons, partnerships, associations and other entities deriving their status as such from the law in force in Singapore; and

(*b*) in the case of the Netherlands, all individuals possessing the nationality of the Netherlands and all legal persons, partnerships and associations deriving their status as such from the law in force in the Netherlands.

3. The taxation on a permanent establishment which an enterprise of one of the States has in the other State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

This provision shall not be construed as obliging one of the States to grant to residents of the other 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.

4. Enterprises of one of the States, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more

burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.

Article 26

MUTUAL AGREEMENT PROCEDURE

1. Where a resident of one of the States considers that the actions of one or both of the States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the State of which he is a resident.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other State, with a view to the avoidance of taxation not in accordance with this Convention.

3. The competent authorities of the States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this Convention.

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

Article 27

EXCHANGE OF INFORMATION

1. The competent authorities of the States shall exchange such information (being information which is at their disposal under their respective laws in the normal course of administration) as is necessary for carrying out the provisions of this Convention, in particular for the prevention of fraud, or underpayment of tax by reasons other than fraud, or for the administration of statutory provisions against legal avoidance concerning taxes covered by this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those, including

a court, concerned with the assessment or collection of, or the determination of appeals in relation to, the taxes which are the subject of this Convention.

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

(*a*) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other State;

(*b*) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other State;

(*c*) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process or information, the disclosure of which would be contrary to public policy.

Article 28

TERRITORIAL EXTENSION

1. This Convention may be extended, either in its entirety or with any necessary modifications, to either or both of the countries of Surinam or the Netherlands Antilles, if the country concerned imposes taxes substantially similar in character to those to which this Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed in notes to be exchanged through diplomatic channels.

2. Unless otherwise agreed the termination of this Convention under Article 30 shall not also terminate the application of this Convention to any country to which it has been extended under this Article.

Article 29

ENTRY INTO FORCE

This Convention shall come into force on the date on which the respective Governments have notified each other in writing that in their respective States the last of all such things have been done as are necessary to give this Convention the force of law, and shall thereupon have effect —

(*a*) in the case of the Netherlands:
for taxable years and periods beginning on or after the first day of January 1968;

(*b*) in the case of Singapore:
for years of assessment beginning on or after the first day of January 1969.

Article 30

TERMINATION

This Convention shall continue in force indefinitely but either State may, on or before the 30th day of June in any calendar year not earlier than the year 1973, give to the other State, through diplomatic channels, written notice of termination and, in such event, this Convention shall cease to be effective

(*a*) in the case of the Netherlands:
for taxable years and periods beginning after the end of the calendar year in which the notice is given;

(*b*) in the case of Singapore:
for years of assessment beginning on or after the first day of January in the second calendar year following that in which such notice is given.

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

DONE in duplicate this 19th day of February, 1971, at Singapore, in the Netherlands and English languages, both texts being equally authentic.

For the Government of the Kingdom of the Netherlands:
R. C. PEKELHARING

For the Government of the Republic of Singapore:
HON SUI SEN

PROTOCOL

At the moment of signing the Convention for the avoidance of double taxation and for the prevention of fiscal evasion with respect to taxes on income and on capital, this day concluded between the Government of the Kingdom

of the Netherlands and the Government of the Republic of Singapore, the undersigned, duly authorised thereto, have agreed that the following provisions shall form an integral part of the Convention.

I. *Ad* Article 8

Singapore shall continue to determine the profits, derived from it by a Netherlands enterprise, on the basis of a certificate issued by the Netherlands tax authority of the place of residence of that enterprise, as provided for in sections 27 and 28 of the Singapore Income Tax Ordinance as in force on the date of signature of the Convention.

II. *Ad* Articles 10 and 11

Applications for the restitution of tax levied contrary to the provisions of Articles 10 and 11 have to be lodged with the authority concerned of the State having levied the tax within a period of three years after the expiration of the calendar year in which the tax has been levied.

III. *Ad* Article 19

The income mentioned in paragraph 1 of Article 19 which is paid by the Netherlands or a political subdivision or a local authority thereof, shall be exempt from Singapore tax unless the recipient is a citizen of Singapore who is not also a national of the Netherlands.

IV. *Ad* Article 24

1. Within 10 years after the entry into force of the Convention the competent authorities shall consult each other in order to determine whether it is opportune to amend the provisions of paragraphs 3 and 4 of Article 24 of the Convention.

2. It is understood that, insofar as the Netherlands income tax or company tax is concerned, the basis meant in the first paragraph of Article 24 is the *onzuivere inkomen* or *winst* in terms of the Netherlands income tax law or company tax law, respectively.

V. *Ad* Article 27

The obligation to exchange information does not include information obtained from banks or from institutions assimilated therewith. The term " institutions assimilated therewith " includes insurance companies.

DONE in duplicate this 19th day of February, 1971, at Singapore, in the Netherlands and English languages, both texts being equally authentic.

For the Government of the Kingdom of the Netherlands:

R. C. PEKELHARING

For the Government of the Republic of Singapore:

HON SUI SEN