

AGREEMENT

BETWEEN NEW ZEALAND AND THE SLOVAK REPUBLIC FOR THE
ELIMINATION OF DOUBLE TAXATION WITH RESPECT TO TAXES ON
INCOME AND THE PREVENTION OF TAX EVASION AND AVOIDANCE

New Zealand and the Slovak Republic, (hereinafter the “Contracting States”)

Desiring to further develop their economic relationship and to enhance their
cooperation in tax matters,

Intending to conclude an Agreement for the elimination of double taxation with respect
to taxes on income without creating opportunities for non-taxation or reduced taxation
through tax evasion or avoidance (including through treaty-shopping arrangements
aimed at obtaining reliefs provided in this Agreement for the indirect benefit of
residents of third States)

Have agreed as follows:

Article 1

PERSONS COVERED

1. This Agreement shall apply to persons who are residents of one or both of the Contracting States.
2. For the purposes of this Agreement, income derived by or through an entity or arrangement that is treated as wholly or partly fiscally transparent under the tax law of either Contracting State shall be considered to be income of a resident of a Contracting State but only to the extent that the income is treated, for the purposes of taxation by that Contracting State, as the income of a resident of that Contracting State.
3. This Agreement shall not affect the taxation, by a Contracting State, of its residents except with respect to the benefits granted under paragraph 2 of Article 9 and Articles 18, 19, 21, 22, 23 and 26.

Article 2
TAXES COVERED

1. The existing taxes to which the Agreement shall apply are:
 - (a) In New Zealand: the income tax
(hereinafter referred to as “New Zealand tax”);
 - (b) In the Slovak Republic:
 - (i) the tax on income of individuals,
 - (ii) the tax on income of legal persons,
(hereinafter referred to as “Slovak tax”).
2. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the taxes listed in paragraph 1 of this Article. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their taxation laws.
3. Notwithstanding the provisions of paragraphs 1 and 2, the taxes covered by the Agreement do not include any amount which represents a penalty or interest imposed under the laws of either Contracting State.

Article 3

GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:
 - (a) the term “New Zealand” means the territory of New Zealand but does not include Tokelau; it also includes any area beyond the territorial sea designated under New Zealand legislation and in accordance with international law as an area in which New Zealand may exercise sovereign rights with respect to natural resources;
 - (b) the term “the Slovak Republic”, means the Slovak Republic and, used in a geographical sense, means its territory, within which the Slovak Republic exercises its sovereign rights and jurisdiction, in accordance with the rules of international law;
 - (c) the term “person” includes an individual, a company and any other body of persons;
 - (d) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - (e) the term “enterprise” applies to the carrying on of any business;
 - (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 except when the ship or aircraft is operated solely between places in a Contracting State and the enterprise that operates the ship or aircraft is not an enterprise of that State;
 - (h) the term “competent authority” means:
 - (i) in the case of New Zealand, the Commissioner of Inland Revenue or an authorised representative; and
 - (ii) in the case of the Slovak Republic, the Ministry of Finance of the Slovak Republic or its 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;
- (j) the term “business” includes the performance of professional services and of other activities of an independent character;
- (k) the term “recognised pension fund” of a State means an entity or arrangement established in that State that is treated as a separate person under the taxation laws of that State and:
 - (i) that is established and operated exclusively or almost exclusively to administer or provide retirement benefits and ancillary or incidental benefits to individuals and that is regulated as such by that State or one of its political subdivisions or local authorities; or
 - (ii) that is established and operated exclusively or almost exclusively to invest funds for the benefit of entities or arrangements referred to in subdivision (i).

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 or the competent authorities agree to a different meaning pursuant to the provisions of Article 23, have the meaning that it has at that time under the law of that Contracting State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Contracting State prevailing over a meaning given to the term under other laws of that Contracting 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 Contracting State, is liable to tax therein by reason of that person’s domicile, residence, place of management or any other criterion of a similar nature, and also includes that Contracting State and any political subdivision or local authority thereof as well as a recognised pension fund of that Contracting State. This term, however, does not include any person who is liable to tax in that Contracting State in respect only of income from sources in that Contracting State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then their status shall be determined as follows:

- (a) the individual shall be deemed to be a resident only of the Contracting State in which a permanent home is available to the individual; if a permanent home is available to the individual in both Contracting States, the individual shall be deemed to be a resident only of the Contracting State with which the individual’s personal and economic relations are closer (centre of vital interests);
- (b) if the Contracting State in which the individual has their centre of vital interests cannot be determined, or if a permanent home is not available to the individual in either Contracting State, the individual shall be deemed to be a resident only of the Contracting State in which the individual has an habitual abode;
- (c) if the individual has an habitual abode in both Contracting States or in neither of them, the individual shall be deemed to be a resident only of the Contracting State of which the individual is a national;
- (d) if the individual is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 of this Article a person other than an individual is a resident of both Contracting States, the competent authorities of

the Contracting States shall endeavour to determine by mutual agreement the Contracting State of which such person shall be deemed to be a resident for the purposes of the Agreement, having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by this Agreement except to the extent and in such manner as may be agreed upon by the competent authorities of the Contracting States.

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 exploration for or exploitation of natural resources.
3. A building site, or a construction, installation or assembly project, or supervisory activities in connection with that building site or construction, installation or assembly project, constitutes a permanent establishment if it lasts more than 6 months.
4. An enterprise shall be deemed to have a permanent establishment in a Contracting State and to carry on business through that permanent establishment if for more than 183 days in any 12 month period it:
 - (a) carries on activities in that Contracting State which consist of, or which are connected with, the exploration for or exploitation of natural resources, including standing timber, situated in that Contracting State;
or
 - (b) operates substantial equipment in that Contracting State; or
 - (c) furnishes services, including consultancy or managerial services, by an enterprise of a Contracting State or through employees or other personnel engaged by the enterprise for such purpose.

5. For the sole purpose of determining whether the time period referred to in paragraph 3 and 4 has been exceeded,

- (a) where an enterprise of a Contracting State carries on activities referred to in paragraph 3 or 4 for a period of more than 30 days and these activities are carried on during periods of time that do not last more than the period stipulated in those paragraphs, and (b) connected activities are carried on in that other Contracting State during different periods of time, each exceeding 30 days, by one or more enterprises closely related to the first-mentioned enterprise,

these different periods of time shall be added to the period of time during which the first-mentioned enterprise has carried on the activities referred to in paragraph 3 or 4.

6. 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;
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e),

provided that such activity, or in the case of subparagraph (f), the overall activity of the fixed place of business, is of a preparatory or auxiliary character.

7. Paragraph 6 shall not apply to a fixed place of business that is used or

maintained by an enterprise if the same enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same Contracting State and

- (a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of this Article, or
- (b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,

provided that the business activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, constitute complementary functions that are part of a cohesive business operation.

8. Notwithstanding the provisions of paragraphs 1 and 2 but subject to the provisions of paragraph 9, where a person is acting in a Contracting State on behalf of an enterprise and, in doing so,

- (a) habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the enterprise, and these contracts are
 - (i) in the name of the enterprise, or
 - (ii) for the transfer of the ownership of, or for the granting of the right to use, property owned by that enterprise or that the enterprise has the right to use, or
 - (iii) for the provision of services by that enterprise, or
- (b) manufactures or processes in a Contracting State for the enterprise goods or merchandise belonging to the enterprise and is closely related to 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 6 which, if exercised through a fixed place of business (other than a fixed place of business to which paragraph 7 would apply), would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

9. Paragraph 8 shall not apply where the person acting in a Contracting State on behalf of an enterprise of the other Contracting State carries on business in the first-mentioned State as an independent agent and acts for the enterprise in the ordinary course of that business. Where, however, a person acts exclusively or almost exclusively on behalf of one or more enterprises to which it is closely related, that person shall not be considered to be an independent agent within the meaning of this paragraph with respect to any such enterprise.

10. 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 Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

11. For the purposes of this Agreement, a person or enterprise is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any case, a person or enterprise shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person or enterprise possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise or in the two enterprises.

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture, forestry or fishing) situated in the other Contracting State may be taxed in that other Contracting 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 any natural resources, property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting immovable property apply, usufruct of immovable property, rights to explore for or exploit natural resources or standing timber, and rights to variable or fixed payments either as consideration for or in respect of the exploitation of, or the right to explore for or exploit natural resources or standing timber; ships and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 of this Article 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 of this Article shall also apply to the income from immovable property of an enterprise.
5. Any right referred to in paragraph 2 of this Article shall be regarded as situated where the immovable property to which it relates is situated or where the exploration or exploitation may take place.

Article 7
BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that Contracting 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 Contracting State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3 of this Article, 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 Contracting State in which the permanent establishment is situated or elsewhere.
4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 of this Article 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. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

6. Where a resident of a Contracting State beneficially owns (whether as a direct beneficiary of a trust or through one or more interposed trusts) a share of the profits of a business of an enterprise carried on in the other Contracting State by the trustee of a trust other than a trust which is treated as a company for tax purposes; and in relation to that enterprise, that trustee has or would have, if it were a resident of the first-mentioned Contracting State, a permanent establishment in the other Contracting State, then the business of the enterprise carried on by the trustee through such permanent establishment shall be deemed to be a business carried on in the other Contracting State by that resident through a permanent establishment situated in that other Contracting State and the resident's share of profits may be taxed in the other Contracting State but only so much of them as is attributable to that permanent establishment.

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.

8. Nothing in this Article shall affect any provisions of the laws of either Contracting State at any time in force as they affect the taxation of any income from any form of insurance.

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 Contracting State.
2. Notwithstanding the provisions of paragraph 1 of this Article, Article 7 and Article 12, profits of an enterprise of a Contracting State derived from
 - (a) carriage by ship or aircraft of passengers, livestock, mail, goods or merchandise which are shipped or embarked in the other Contracting State and are discharged at a place in that other Contracting State, or
 - (b) leasing a ship or aircraft, fully equipped, crewed and supplied, for purposes of such carriagemay be taxed in that other Contracting State.
3. The provisions of paragraphs 1 and 2 of this Article shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

ASSOCIATED ENTERPRISES

1. Where

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

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

2. Where a Contracting State includes in the profits of an enterprise of that Contracting State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other Contracting State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Contracting State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Contracting 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.

3. The provisions of paragraph 2 of this Article shall not apply where judicial, administrative or other legal proceedings have resulted in a final ruling that by actions giving rise to an adjustment of profits under paragraph 1 of this Article, one of the enterprises concerned is liable to penalty with respect to fraud, gross negligence or wilful default.

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 Contracting State.
2. However, dividends paid by a company which is a resident of a Contracting State may also be taxed in that Contracting State according to the laws of that Contracting State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:
 - (a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 10 per cent of the voting power in the company paying the dividends throughout a 365 day period that includes the day of payment of the dividend (for the purpose of computing that period, no account shall be taken of changes of ownership that would directly result from a corporate reorganisation, such as a merger or divisive reorganisation, of the company that holds the shares or that pays the dividend);
 - (b) 15 per cent of the gross amount of the dividends in all other cases.
3. Paragraph 2 of this Article shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.
4. The term “dividends” as used in this Article means income from shares, mining shares, founders’ 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 and other income treated as income from shares by the laws of the Contracting State of which the company making the distribution is a resident.
5. The provisions of paragraphs 1 and 2 of this Article 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 and the holding in respect

of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 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 Contracting 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 Contracting State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other Contracting 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 Contracting 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 Contracting State.

2. However, interest arising in a Contracting State may also be taxed in that Contracting State according to the laws of that Contracting 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 of this Article, interest arising in a Contracting State and derived and beneficially owned by a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State provided the beneficial owner of the interest is dealing wholly independently with the payer and is:

- (a) in the case of the Slovak Republic:
 - (i) the Government of the Slovak Republic,
 - (ii) the local authorities,
 - (iii) Národná banka Slovenska (the National Bank of Slovakia),
 - (iv) Eximbanka SR (Export-Import Bank of the Slovak Republic),
 - (v) Slovenská záručná a rozvojová banka, a. s. (Slovak Guarantee and Development Bank),
 - (vi) Agentúra pre riadenie dlhu a likvidity (Debt and Liquidity Management Agency),
- (b) in the case of New Zealand:
 - (i) the Government of New Zealand,
 - (ii) the local authorities,
 - (iii) the Reserve Bank of New Zealand,
 - (iv) the New Zealand Export Credit Office.

4. Notwithstanding the provisions of paragraph 3 of this Article, interest referred to in that paragraph may be taxed in the Contracting State in which it arises at a rate not exceeding 10 percent of the gross amount of the interest if the beneficial owner of the

interest holds, together with any closely related enterprises, directly or indirectly more than 10 per cent of the voting power in the payer of the interest.

5. 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 all other income treated as income from money lent by the laws, relating to tax, of the Contracting State in which the income arises, but does not include any income which is treated as a dividend under Article 10.

6. The provisions of paragraphs 1, 2, 3 and 4 of this Article 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 and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

7. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that Contracting State. Where, however, the person paying the interest, whether the person is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is deductible in determining the profits attributable to such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

8. 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 Contracting State.
2. However, royalties arising in a Contracting State may also be taxed in that Contracting State according to the laws of that Contracting 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:
 - (a) the use of, or the right to use, any copyright, patent, trademark, design or model, plan, secret formula or process, or other like property or right;
 - (b) the use of, or the right to use:
 - (i) motion picture films;
 - (ii) films or audio or video tapes or disks, or any other means of image or sound reproduction or transmission for use in connection with television, radio, internet or other broadcasting;
 - (c) the use of, or the right to use, any industrial, scientific or commercial equipment;
 - (d) knowledge or information concerning industrial, technical, commercial or scientific experience;
 - (e) total or partial forbearance in respect of the use or supply of any property or right referred to in this paragraph.
4. The provisions of paragraphs 1 and 2 of this Article 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 and the right or property in respect of which the royalties

are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that Contracting State. Where, however, the person paying the royalties, whether the person is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are deductible in determining the profits attributable to such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment 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

ALIENATION OF PROPERTY

1. Income or 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 Contracting State.
2. Income or gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such income or gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other Contracting State.
3. Income or gains derived by an enterprise 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 Contracting State.
4. Income or gains derived by a resident of a Contracting State from the alienation of shares or comparable interests, such as interests in a partnership or trust, may be taxed in the other Contracting State if, at any time during the 365 days preceding the alienation, these shares or comparable interests derived more than 50 per cent of their value directly or indirectly from immovable property, as defined in Article 6, situated in that other Contracting State.
5. Nothing in this Agreement affects the application of the laws of a Contracting State relating to the taxation of gains of a capital nature derived from the alienation of any property other than that to which any of the preceding paragraphs of this Article apply.

Article 14

INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 15, 17 and 18, 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 Contracting 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 Contracting State.

2. Notwithstanding the provisions of paragraph 1 of this Article, 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 Contracting State if:

- (a) the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in any 12 month period commencing or ending in the taxable year concerned, and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Contracting State, and
- (c) the remuneration is not deductible in determining the profits attributable to a permanent establishment which the employer has in the other Contracting State.

3. The term “employer” mentioned in paragraph 2 of this Article means any person giving instructions and orders connected with the performance of work and bearing risk and responsibility for the work performed.

4. Notwithstanding the preceding provisions of this Article, remuneration derived by a resident of a Contracting State in respect of an employment, as a member of the regular complement of a ship or aircraft, that is exercised aboard a ship or aircraft operated in international traffic, other than aboard a ship or aircraft operated solely within the other Contracting State, shall be taxable only in the first-mentioned State.

Article 15

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State in that person's 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 Contracting State.

Article 16

ENTERTAINERS AND SPORTSPERSONS

1. Notwithstanding the provisions of Article 14, 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 sportsperson, from that resident's personal activities as such exercised in the other Contracting State, may be taxed in that other Contracting State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsperson acting as such accrues not to the entertainer or sportsperson but to another person, that income may, notwithstanding the provisions of Article 14, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.
3. The provisions of paragraphs 1 and 2 of this Article shall not apply to income derived from activities exercised in a Contracting State if the visit to that Contracting State is wholly or mainly supported by public funds of the other Contracting State, or a local authority thereof. In such a case, the income or profits is taxable only in the Contracting State in which the entertainer or the sportsperson is a resident.

Article 17
PENSIONS

1. Pensions (including government service pensions) and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that Contracting State.

2. Pensions and other payments made under the social security legislation of a Contracting State to a resident of the other Contracting State shall be taxable only in that other Contracting State.

Article 18

GOVERNMENT SERVICE

1. Salaries, wages and other similar remuneration (other than pensions) paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that Contracting State or political subdivision or local authority shall be taxable only in that Contracting State.
2. However, such payments shall be taxable only in the other Contracting State if the services are rendered in that Contracting State and the individual is a resident of that Contracting State who:
 - (a) is a national of that Contracting State; or
 - (b) did not become a resident of that Contracting State solely for the purpose of rendering the services.
3. The provisions of Articles 14, 15 or 16 shall apply to payments in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 19
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 Contracting State solely for the purpose of their education or training receives for the purpose of their maintenance, education or training shall not be taxed in that Contracting State, provided that such payments arise from sources outside that Contracting State.

Article 20

OTHER INCOME

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

Article 21

ELIMINATION OF DOUBLE TAXATION

1. In New Zealand:

Subject to the provisions of the laws of New Zealand which relate to the allowance of a credit against New Zealand tax of tax paid in a country outside New Zealand (which shall not affect the general principle of this Article), Slovak tax paid under the laws of the Slovak Republic and consistent with this Agreement, in respect of income derived by a resident of New Zealand from sources in the Slovak Republic (excluding, in the case of a dividend, tax paid in respect of the profits out of which the dividend is paid) shall be allowed as a credit against New Zealand tax payable in respect of that income.

2. In the Slovak Republic:

- (a) The Slovak Republic, when imposing taxes on its residents, may include in the tax base upon which such taxes are imposed the items of income which according to the provisions of this Agreement may also be taxed in New Zealand, but shall allow as a deduction from the amount of tax computed on such a base an amount equal to the tax paid in New Zealand.
- (b) Such deduction shall not, however, exceed that part of the tax payable in the Slovak Republic, as computed before the deduction is given, which is appropriate to the income that may be taxed in New Zealand in accordance with the provisions of this Agreement.
- (c) Where in accordance with any provision of this Agreement income derived by a resident of the Slovak Republic is exempt from tax in the Slovak Republic, the Slovak Republic may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

Article 22

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 more burdensome than the taxation and connected requirements to which nationals of that other Contracting State in the same circumstances, in particular with respect to residence, are or may be subjected.
2. Stateless persons who are residents of a Contracting State shall not be subjected in either 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 the Contracting State concerned in the same circumstances, in particular with respect to residence, are or may be subjected.
3. 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 Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities in similar circumstances. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
4. Except where the provisions of paragraph 1 of Article 9, paragraph 8 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 Contracting State.
5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is more burdensome than the

taxation and connected requirements to which other similar enterprises of the first-mentioned Contracting State in similar circumstances are or may be subjected.

6. This Article shall apply to taxes which are covered by this Agreement.

7. This Article shall not apply to any provision of the laws of a Contracting State which:

- (a) is designed to prevent the avoidance or evasion of taxes;
- (b) does not permit the deferral of tax arising on the transfer of an asset where the subsequent transfer of the asset by the transferee would be beyond the taxing jurisdiction of the Contracting State under its laws;
- (c) provides for consolidation of group entities for treatment as a single entity for tax purposes provided that a company, being a resident of that 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, may access such consolidation treatment on the same terms and conditions as other companies that are residents of the first-mentioned Contracting State;
- (d) provides for the transfer of losses within a group of companies;
- (e) does not allow tax rebates, credits or an exemption in relation to dividends paid by a company that is a resident of that Contracting State for purposes of its tax;
- (f) is otherwise agreed to be unaffected by this Article in an Exchange of Notes between the Contracting States.

8. In this Article, provisions of the laws of a Contracting State which are designed to prevent avoidance or evasion of taxes include:

- (a) measures designed to address thin capitalisation and transfer pricing;
- (b) controlled foreign company and foreign investment fund rules; and
- (c) measures designed to ensure that taxes can be effectively collected and recovered, including conservancy measures.

Article 23

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for that person in taxation not in accordance with the provisions of this Agreement, that person may, irrespective of the remedies provided by the domestic law of those Contracting States, present a case to the competent authority of the Contracting State of which the person is a resident or, if that person's case comes under paragraph 1 of Article 22, to that of the Contracting State of which that person 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.

Article 24

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 of this Article by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that Contracting 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 of this Article, 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. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both Contracting States and the competent authority of the supplying Contracting State authorises such use.

3. In no case shall the provisions of paragraphs 1 and 2 of this Article 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 Contracting 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 of this Article 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 of this Article be construed to permit a Contracting State to decline to supply information solely because the information 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 25

ASSISTANCE IN THE COLLECTION OF TAXES

1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.
2. The term “revenue claim” as used in this Article means an amount owed in respect of 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 this Agreement or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.
3. When a revenue claim of a Contracting State is enforceable under the laws of that Contracting State and is owed by a person who, at that time, cannot, under the laws of that Contracting State, prevent its collection, that revenue claim shall, at the request of the competent authority of that Contracting State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other Contracting State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other Contracting State.
4. When a revenue claim of a Contracting State is a claim in respect of which that Contracting State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that Contracting State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other Contracting State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other Contracting State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned Contracting State or is owed by a person who has a right to prevent its collection.

5. Notwithstanding the provisions of paragraphs 3 and 4 of this Article, a revenue claim accepted by a Contracting State for purposes of paragraph 3 or 4 of this Article shall not, in that Contracting State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that Contracting State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 of this Article shall not, in that Contracting State, have any priority applicable to that revenue claim under the laws of the other Contracting State.

6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State.

7. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 of this Article and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned Contracting State, the relevant revenue claim ceases to be

(a) in the case of a request under paragraph 3 of this Article, a revenue claim of the first-mentioned Contracting State that is enforceable under the laws of that Contracting State and is owed by a person who, at that time, cannot, under the laws of that Contracting State, prevent its collection, or

(b) in the case of a request under paragraph 4 of this Article, a revenue claim of the first-mentioned Contracting State in respect of which that Contracting State may, under its laws, take measures of conservancy with a view to ensure its collection

the competent authority of the first-mentioned Contracting State shall promptly notify the competent authority of the other Contracting State of that fact and, at the option of the other Contracting State, the first-mentioned Contracting State shall either suspend or withdraw its request.

8. In no case shall the provisions of this Article 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 carry out measures which would be contrary to public policy (ordre public);
- (c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice;
- (d) to provide assistance in those cases where the administrative burden for that Contracting State is clearly disproportionate to the benefit to be derived by the other Contracting State.

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

ENTITLEMENT TO BENEFITS

1. Except as otherwise provided in this Article, a resident of a Contracting State shall not be entitled to a benefit that would otherwise be accorded by this Agreement (other than a benefit under paragraph 3 of Article 4, paragraph 2 of Article 9 or Article 23) unless such resident is a “qualified person”, as defined in paragraph 2, at the time that the benefit would be accorded.
2. A resident of a Contracting State shall be a qualified person at a time when a benefit would otherwise be accorded by the Agreement if, at that time, the resident is:
 - (a) an individual;
 - (b) that Contracting State, or a political subdivision or local authority thereof, or an agency or instrumentality of that Contracting State, political subdivision or local authority;
 - (c) a company or other entity, if the principal class of its shares is regularly traded on one or more recognised stock exchanges;
 - (d) a person, other than an individual, that
 - (i) is an entity or organisation that is established and is operated exclusively for charitable, religious, humanitarian, scientific, educational, cultural, social, environmental, public health or similar purposes (or for more than one of those purposes), provided that all or part of its income may be exempt from tax under the domestic law of that Contracting State, or
 - (ii) is a recognised pension fund;
 - (e) a person other than an individual if, at that time and on at least half the days of a 12 month period that includes that time, persons who are residents of that Contracting State that are entitled to benefits of this Agreement under subparagraphs (a) to (d) own, directly or indirectly, at least 50 per cent of the shares of the person.
3. (a) A resident of a Contracting State shall be entitled to benefits under this Agreement with respect to an item of income derived from the other Contracting State, regardless of whether the resident is a qualified

person, if the resident is engaged in the active conduct of a business in the first-mentioned Contracting State and the income derived from the other Contracting State emanates from, or is incidental to, that business. For purposes of this Article, the term “active conduct of a business” shall not include the following activities or any combination thereof:

- (i) operating as a holding company;
 - (ii) providing overall supervision or administration of a group of companies;
 - (iii) providing group financing (including cash pooling); or
 - (iv) making or managing investments, unless these activities are carried on by a bank, insurance enterprise or registered securities dealer in the ordinary course of its business as such.
- (b) If a resident of a Contracting State derives an item of income from a business activity conducted by that resident in the other Contracting State, or derives an item of income arising in the other Contracting State from a connected person, the conditions described in subparagraph a) shall be considered to be satisfied with respect to such item only if the business activity carried on by the resident in the first-mentioned Contracting State to which the item is related is substantial in relation to the same or complementary business activity carried on by the resident or such connected person in the other Contracting State. Whether a business activity is substantial for the purposes of this paragraph shall be determined based on all the facts and circumstances.
- (c) For purposes of applying this paragraph, activities conducted by connected persons with respect to a resident of a Contracting State shall be deemed to be conducted by such resident.

4. A resident of a Contracting State that is not a qualified person shall nevertheless be entitled to a benefit that would otherwise be accorded by this Agreement with respect to an item of income if, at the time when the benefit otherwise would be accorded and on at least half of the days of any 12 month period that includes that time, persons that are equivalent beneficiaries own, directly or indirectly, at least 75 per cent of the shares of the resident.

5. If a resident of a Contracting State is neither a qualified person pursuant to the provisions of paragraph 2 of this Article, nor entitled to benefits under paragraph 3 or 4, the competent authority of the Contracting State in which benefits are denied under the previous provisions of this Article may, nevertheless, grant the benefits of this Agreement, or benefits with respect to a specific item of income, taking into account the object and purpose of this Agreement, but only if such resident demonstrates to the satisfaction of such competent authority that neither its establishment, acquisition or maintenance, nor the conduct of its operations, had as one of its principal purposes the obtaining of benefits under this Agreement. The competent authority of the Contracting State to which a request has been made, under this paragraph, by a resident of the other Contracting State, shall consult with the competent authority of that other Contracting State before either granting or denying the request.

6. For the purposes of this and the previous paragraphs of this Article:

- (a) the term “recognised stock exchange” means:
 - (i) any stock exchange established and regulated as such under the laws of either Contracting State; and
 - (ii) any other stock exchange agreed upon by the competent authorities of the Contracting States;
- (b) with respect to entities that are not companies, the term “shares” means interests that are comparable to shares;
- (c) the term “principal class of shares” means the class or classes of shares of a company or entity which represents the majority of the aggregate vote and value of the company or entity;
- (d) two persons shall be “connected persons” if one owns, directly or indirectly, at least 50 per cent of the beneficial interest in the other (or, in the case of a company, at least 50 per cent of the aggregate vote and value of the company's shares) or another person owns, directly or indirectly, at least 50 per cent of the beneficial interest (or, in the case of a company, at least 50 per cent of the aggregate vote and value of the company's shares) in each person. In any case, a person shall be connected to another if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same person or persons;

- (e) the term “equivalent beneficiary” means any person who would be entitled to benefits with respect to an item of income accorded by a Contracting State under the domestic law of that Contracting State, this Agreement or any other international agreement which are equivalent to, or more favourable than, benefits to be accorded to that item of income under this Agreement. For the purposes of determining whether a person is an equivalent beneficiary with respect to dividends received by a company, the person shall be deemed to be a company and to hold the same capital of the company paying the dividends as such capital the company claiming the benefit with respect to the dividends holds.

7. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.

8. (a) Where

- (i) an enterprise of a Contracting State derives income from the other Contracting State and the first-mentioned Contracting State treats such income as attributable to a permanent establishment of the enterprise situated in a third jurisdiction, and

- (ii) the profits attributable to that permanent establishment are exempt from tax in the first-mentioned Contracting State,

the benefits of this Agreement shall not apply to any item of income on which the tax in the third jurisdiction is less than the lower of 15 per cent of the amount of that item of income and 60 per cent of the tax that would be imposed in the first-mentioned Contracting State on that item of income if that permanent establishment were situated in the first-mentioned State. In such a case any income to which the provisions of this paragraph apply shall remain taxable according to the domestic law of the other Contracting State, notwithstanding any other provisions of the Agreement.

- (b) The preceding provisions of this paragraph shall not apply if the income derived from the other Contracting State emanates from, or is incidental to, the active conduct of a business carried on through the permanent

establishment (other than the business of making, managing or simply holding investments for the enterprise's own account, unless these activities are banking, insurance or securities activities carried on by a bank, insurance enterprise or registered securities dealer, respectively).

- (c) If benefits under this Agreement are denied pursuant to the preceding provisions of this paragraph with respect to an item of income derived by a resident of a Contracting State, the competent authority of the other Contracting State may, nevertheless, grant these benefits with respect to that item of income if, in response to a request by such resident, such competent authority determines that granting such benefits is justified in light of the reasons such resident did not satisfy the requirements of this paragraph (such as the existence of losses). The competent authority of the Contracting State to which a request has been made under the preceding sentence shall consult with the competent authority of the other Contracting State before either granting or denying the request.

9. Notwithstanding the other provisions of this Agreement, a benefit under this Agreement shall not be granted in respect of an item of income if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Agreement.

Article 28

ENTRY INTO FORCE

This Agreement shall be ratified in accordance with the internal legal procedures of both Contracting States and shall enter into force on first day of the third month following date of receipt of later diplomatic note confirming that the internal legal procedures have been completed. The provisions of this Agreement shall thereupon have effect:

- (a) in New Zealand:
 - (i) in respect of withholding tax on income, profits or gains derived by a non-resident, for amounts paid or credited on or after the first day of January of the calendar year following the year in which this Agreement enters into force,
 - (ii) in respect of other New Zealand tax, for any income year beginning on or after 1 April next following the date on which the Agreement enters into force,
- (b) in the Slovak Republic:
 - (i) in respect of taxes withheld at source, to amounts of income paid or credited on or after the first day of January of the calendar year following the year in which this Agreement enters into force,
 - (ii) in respect of other taxes, to such taxes as will be imposed for any tax periods beginning on or after the first day of January of the calendar year following the year in which this Agreement enters into force.

Article 29

TERMINATION

1. This Agreement shall remain in force for indefinite period until terminated by one of the Contracting States.

2. Either of the Contracting States may terminate the Agreement, through diplomatic channels by giving written notice of termination, at least six months before the end of any calendar year following after the period of at least five years from the date on which this Agreement enters into force. In such event, the Agreement shall cease to have effect:

(a) in New Zealand:

- (i) in respect of withholding tax on income, profits or gains derived by a non-resident, for amounts paid or credited on or after the first day of January in the calendar year next following the year in which the notice of termination is given,
- (ii) in respect of other New Zealand tax, for any income year beginning on or after 1 April in the calendar year next following that in which the notice of termination is given,

(b) in the Slovak Republic:

- (i) in respect of taxes withheld at source, to income paid or credited on or after the first day of January in the calendar year next following the year in which the notice of termination is given,
- (ii) in respect of other taxes, in any tax year beginning on or after the first day of January in the calendar year next following the year in which the notice of termination is given.

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

DONE in duplicate at [...place...] this [...day, month and year...] in the English and Slovak languages, both texts being equally authentic. In case of divergence between the two texts, the English text shall prevail.

FOR
NEW ZEALAND

FOR
THE SLOVAK REPUBLIC

PROTOCOL

At the time of signing of the Agreement between New Zealand and the Slovak Republic for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance (the “Agreement”), the undersigned have agreed upon the following provisions which shall form an integral part of the Agreement:

1. With reference to Articles 10, 11 and 12:

It is understood that where the trustees of a discretionary trust do not distribute dividends, interest or royalties earned during a given period, these trustees, acting in their capacity as such, constitute the beneficial owners of such income for the purposes of the relevant Article, even if they are not the beneficial owners under the relevant trust law.

2. With reference to paragraph 3 of Article 12:

It is understood that the term “royalties” includes any assistance that is ancillary and subsidiary to, and is furnished as a means of enabling the application or enjoyment of, any such property or right as is mentioned in subparagraph (a) or (b), any such equipment as is mentioned in subparagraph (c) or any such knowledge or information as is mentioned in subparagraph (d).

3. With reference to letter (c), paragraph 3 of Article 12:

It is understood that the term “any industrial, scientific or commercial equipment” includes ships, aircraft and containers.

DONE in duplicate at [...place...] this [...day, month and year...] in the English and Slovak languages, both texts being equally authentic. In case of divergence between the two texts, the English text shall prevail.

FOR
NEW ZEALAND

FOR
THE SLOVAK REPUBLIC