Treaty networks and investment protection

Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland and Germany),
Solicitor (England & Wales and Hong Kong)
Of Counsel, KGP Legal LLC
alexander.ressos@kgplegal.com.sg
www.ressos.com.sg

Tax agreements and the regional holding company

A regional headquarters often holds the shares of the operating companies in the region. Dividends, interest, royalties and service fees then flow from those companies to Singapore. Each of these payments may attract withholding tax in the source country. Agreements for the avoidance of double taxation reduce these taxes and allocate taxing rights between the two states. Singapore has concluded such agreements, limited agreements and arrangements for the exchange of information with around 100 jurisdictions, including all its larger ASEAN neighbours.[1] The tax treaty network as an instrument of diplomacy is described in Chapter F.IV.

For many years, the treaty network supported a simple structure. A group from Europe, the United States or Japan established a Singapore holding company, which acquired the shares of the operating companies in Indonesia, Malaysia, Thailand or Vietnam. The dividends flowed to Singapore at the reduced treaty rates and were exempt there under the rules for foreign-sourced income. From Singapore they could be reinvested in the region or paid to the parent company. The structure was

© 2026 Dr Alexander Ressos. General information only, not legal, tax or investment advice. No client relationship is created. All Singapore law advice is provided by a duly licensed and regulated firm of Singapore advocates and solicitors only on the basis of an express written letter of engagement. More information at SingaporeIQ.com and ressos.com.sg.

legitimate when the Singapore company had real functions, staff and decision-making. It became controversial when the Singapore company was a shell interposed only to obtain treaty benefits.

The Multilateral Instrument and the principal purpose test

The work of the OECD and the G20 on base erosion and profit shifting has curtailed the second type of structure. The Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting was signed in Paris on 7 June 2017 and entered into force on 1 July 2018. It entered into force for Singapore on 1 April 2019.[2] The convention modifies the covered tax agreements of its parties. Its central anti-abuse provision, the principal purpose test, denies treaty benefits where obtaining them was one of the principal purposes of an arrangement, unless granting them would accord with the object and purpose of the treaty.[3]

For regional structures, the consequence is that substance has become indispensable. A Singapore holding company that has its own directors resident in Singapore, takes its decisions there, employs staff and bears the risks of its investments will generally satisfy the test. A company that only holds shares and passes on dividends exposes the group to challenge by the tax authorities of the source state. Several ASEAN tax authorities have become more assertive in such cases. The headquarters model and the treaty network thus reinforce each other: the tax benefits are available to groups that place real functions in Singapore, which is the policy goal of the incentive schemes.

Investment treaties

Tax agreements protect against double taxation. Investment treaties protect against the actions of the host state itself: expropriation without compensation, discrimination, unfair treatment and restrictions on the transfer of funds. Most of them give the investor a right to bring a claim against the host state before an international arbitral tribunal. Singapore has concluded bilateral investment treaties with many states, while its free trade agreements often contain investment chapters.

© 2026 Dr Alexander Ressos. General information only, not legal, tax or investment advice. No client relationship is created. All Singapore law advice is provided by a duly licensed and regulated firm of Singapore advocates and solicitors only on the basis of an express written letter of engagement. More information at SingaporeIQ.com and ressos.com.sg.

Within the region, the ASEAN Comprehensive Investment Agreement of 2009 combines liberalisation commitments with investment protection and investor-state arbitration for investors of the member states.[4]

A company incorporated in Singapore with substantial business operations there will generally qualify as a Singapore investor under these instruments. Groups from countries with weaker treaty networks in the region have therefore placed their regional investments under Singapore holding companies, partly for protection. Treaty tribunals examine such structures closely when the restructuring takes place after a dispute has become foreseeable. Protection should therefore be planned at the time of the investment and documented as part of a genuine business decision.

Several states of the region have reconsidered their treaty commitments. In 2014 Indonesia made known that it would allow its bilateral investment treaties to lapse as they came up for renewal.[5] It later negotiated new treaties on its own model, including one with Singapore.[6] The newer generation of treaties defines investors and investments more narrowly, restricts the standard of fair and equitable treatment and preserves more room for regulation. Investors who rely on an older treaty must check whether it remains in force and whether a sunset clause still protects investments made before its termination.

Singapore as a seat of investment arbitration

Singapore is also one of the places where investment disputes are decided. The Singapore International Arbitration Centre, established on 1 July 1991, issued its first Investment Arbitration Rules with effect from 1 January 2017, while the seventh edition of its general rules, the SIAC Rules 2025, has applied since 1 January 2025.[7] The general role of the Centre is examined in Chapter F.II.

The best-known example of the role of Singapore's courts in investment arbitration concerns a dispute between a Macau company and Laos. The investor, Sanum Investments, brought a claim under the treaty between China and Laos before a tribunal seated in Singapore. In September 2016 the Court of Appeal held that, under the moving treaty frontier rule, the treaty extended to Macau after China

© 2026 Dr Alexander Ressos. General information only, not legal, tax or investment advice. No client relationship is created. All Singapore law advice is provided by a duly licensed and regulated firm of Singapore advocates and solicitors only on the basis of an express written letter of engagement. More information at SingaporeIQ.com and ressos.com.sg.

resumed sovereignty. It concluded that the tribunal had jurisdiction over the investor's claims.[8] The judgment showed that Singapore's courts will decide difficult questions of public international law when an arbitration is seated in the city, even under a treaty to which Singapore is not a party. For investors in the region, this is part of the attraction of a Singapore seat.

Choice of court and the enforcement of judgments

Commercial disputes with private counterparties in the region are more frequent than claims against states. Here the question is where a judgment or award can be enforced. Arbitral awards made in Singapore can be enforced in the other member states under the New York Convention, subject to the uneven practice of their courts. Court judgments travel less easily. Singapore became a party to the Hague Convention on Choice of Court Agreements, which it signed on 25 March 2015 and ratified on 2 June 2016, with effect from 1 October 2016.[9] No other ASEAN state has joined that convention, so that arbitration remains the more reliable route for regional contracts. Chapter F.III examines the Singapore International Commercial Court and the Singapore Convention on Mediation, which offer further options.

Notes

1. Inland Revenue Authority of Singapore, “List of DTAs, Limited DTAs and EOI Arrangements” (iras.gov.sg, accessed November 2026): Singapore has signed DTAs, limited DTAs and EOI arrangements with “around 100 jurisdictions”. ↩
2. Wikipedia, “Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting” (accessed November 2026): signed on 7 June 2017 in Paris; entry into force on 1 July 2018; Singapore listed as a party with entry into force on 1 April 2019; parties must satisfy the minimum standards of the BEPS package, including the prevention of treaty abuse. ↩

© 2026 Dr Alexander Ressos. General information only, not legal, tax or investment advice. No client relationship is created. All Singapore law advice is provided by a duly licensed and regulated firm of Singapore advocates and solicitors only on the basis of an express written letter of engagement. More information at SingaporeIQ.com and ressos.com.sg.

3. Multilateral Instrument, Art. 7(1) (principal purpose test), implementing the BEPS Action 6 minimum standard. ↩
4. ASEAN Comprehensive Investment Agreement, signed at Cha-am, Thailand, on 26 February 2009, in force on 29 March 2012, replacing the ASEAN Investment Guarantee Agreement of 1987 and the Framework Agreement on the ASEAN Investment Area of 1998. ↩
5. Wikipedia, "Investor–state dispute settlement" (accessed November 2026): "Indonesia plans to let treaties with ISDS clauses lapse when they need renewal", citing *The Economist* of 11 October 2014. ↩
6. Agreement between the Government of the Republic of Singapore and the Government of the Republic of Indonesia on the Promotion and Protection of Investments, signed on 11 October 2018, in force on 9 March 2021; replaced the treaty of 2005 terminated by Indonesia in 2016. ↩
7. Wikipedia, "Singapore International Arbitration Centre" (accessed November 2026): established on 1 July 1991; first edition of the Investment Arbitration Rules effective 1 January 2017; SIAC Rules 7th edition of 1 January 2025 in force. ↩
8. *Sanum Investments Ltd v Government of the Lao People's Democratic Republic* [2016] SGCA 57 (Court of Appeal: Sundaresh Menon CJ, Chao Hick Tin JA, Andrew Phang Boon Leong JA, Judith Prakash JA and Quentin Loh J; judgment of the court delivered by Menon CJ on 29 September 2016) (elitigation.sg, accessed November 2026): at [47] the "moving treaty frontier" rule; at [76] the PRC–Laos BIT "would extend to Macau upon the PRC resuming sovereignty"; at [151] "the Tribunal does have subject-matter jurisdiction over the claims brought by Sanum"; at [153] the appeals allowed. ↩
9. Wikipedia, "Hague Choice of Court Agreements Convention" (accessed November 2026): concluded on 30 June 2005, in force on 1 October 2015; Singapore signed on 25 March 2015, ratified on 2 June 2016, entry into force for Singapore on 1 October 2016; Singapore is the only ASEAN member state listed among the parties. ↩

© 2026 Dr Alexander Ressos. General information only, not legal, tax or investment advice. No client relationship is created. All Singapore law advice is provided by a duly licensed and regulated firm of Singapore advocates and solicitors only on the basis of an express written letter of engagement. More information at SingaporeIQ.com and ressos.com.sg.

Disclaimer

This article is provided for general information only. It is based on publicly available sources as at its date of publication. These sources have not been independently verified against licences, regulatory registers or the records of the entities concerned. It is not legal, tax, financial or investment advice. Nor is it a recommendation to invest in, transact with or use the services of any entity mentioned. Law and regulation change frequently, so the content may be incomplete or outdated. To the fullest extent permitted by law, Dr Alexander Ressos and the publisher of SingaporeIQ exclude all liability for loss or damage arising from the use of or reliance on this article. Readers should obtain advice on their specific circumstances before acting or refraining from action.

Names and trademarks of the entities discussed belong to their owners and are used for identification only. Their mention implies no endorsement, affiliation or allegation of wrongdoing. All Singapore law advice is provided by a duly licensed and regulated firm of Singapore advocates and solicitors only on the basis of an express written letter of engagement. Corrections and updates: contact@ressos.com.

© 2026 Dr Alexander Ressos. This article may be quoted with attribution to SingaporeIQ (SingaporeIQ.com). Reproduction in full and any commercial use require prior written consent. The Legal Terms at https://singaporeiq.com/legal-terms apply.

Author contact: Dr Alexander Ressos, TEP · contact@ressos.com