Annex: Summary of key changes in new Protocol to update the Singapore-India DTA

The updated DTA **preserves the existing tax exemption on capital gains for shares acquired before 1 April 2017**, while providing a transitional arrangement for shares acquired on or after 1 April 2017. **For shares acquired on or after 1 April 2017, there will be a two-year transition period, during which the capital gains from such shares will be taxed at 50% of India's domestic tax rate** if the capital gains arise during 1 April 2017 to 31 March 2019.

(1) Taxation of capital gains

Shares acquired	Tax treatment for gains arising from the alienation of such shares
(a) **Before 1 April 2017**	• Remain taxable only in the residence State of the alienator • Subject to specified conditions including expenditure on operations of the alienator in its residence State of at least S$200,000 in Singapore or Indian Rs5,000,000 in India, as the case may be, for each of the 12-month periods in the immediately preceding period of 24 months from the date on which the gains arise • **Status quo prevails**
(b) On or after 1 April 2017	For gains that arise **during the period 1 April 2017 to 31 March 2019** • Tax rate imposed on such gains will be limited to **50% of the tax rate** applicable on such gains in the State in which the company whose shares are alienated is resident • Subject to specified conditions including expenditure on operations of the alienator in its residence State of at least S$200,000 in Singapore or Indian Rs5,000,000 in India, as the case may be, for the immediately preceding period of 12 months from the date on which the gains arise
	For gains that arise after 31 March 2019 • Will be taxable in the State in which the company whose shares are alienated is resident

<u>Illustration</u>

Example: Company A is a Singapore tax resident. It acquires shares in an Indian tax-resident company B. A meets the specified conditions including the expenditure on operations.

<u>Scenario 1</u>: <u>A acquires B's shares before 1 April 2017</u>. When A disposes these shares eventually, the capital gains will not be subject to capital gains tax in India. This applies irrespective of when the gains arise.

<u>Scenario 2</u>: <u>A acquires B's shares on or after 1 April 2017.</u>

- <u>Scenario 2A</u>: When A disposes these shares during the period 1 April 2017 to 31 March 2019, the capital gains arising during this period will be taxed at 50% of India's domestic tax rate.

- <u>Scenario 2B</u>: When A disposes these shares on or after 1 April 2019, the capital gains will be taxed at India's full domestic tax rate.

(2) Article 9 on Associated Enterprises

The new Protocol also updates Article 9 on Associated Enterprises to provide for both countries to enter into bilateral discussions for elimination of double taxation arising from transfer pricing or pricing of related party transactions.