

## Group discussion 1 – Case study “Son of the Moon”

### Facts

A **public limited company (PLC) “Son of the Moon”**, registered in the Commercial Register of the State of the Moon, carries out industrial construction activities in the country where its registered office is located. It is part of a multinational group that includes **Strongstar International**, a company based in the State of Jupiter.

The Revenue Agency of the Moon initiated on August 02, 2019 a tax audit of **Son of the Moon PLC** covering direct and indirect taxes for the tax years 2016, 2017 and 2018. The preparatory work enabled the auditors to note that **Strongstar International** holds 80% of the capital of **Son of the Moon PLC**.

A review of the company's first accounting documents shows that 95% of its industrial production are sold to **Strongstar Mars**, a PLC based in the State of Mars. The auditors also note that \$750 million was paid in 2016 by **Son of the Moon PLC** to **Betastar**, a Neptune State company. The payment was a guarantee to **Betastar** in the event of total or partial non-execution by **Strongstar Mars PLC** of the subcontract it has concluded with **Betastar**.

The auditors suspect a profit shifting from Son of the Moon by the above-mentioned suspicious transactions. The auditors were aware that the same transfer pricing method has been used by other subsidiaries of the multinational in other countries. In accordance with the Moon's transfer pricing legislation, they received documentation on intra-group relations and transactions.

Attached is an excerpt from the tax treaty between the Moon State and the Jupiter State.

### Questions

As auditors of the Moon Revenue Agency and assuming that Mars and Neptune have entered into a tax treaty with the Moon providing for Article 26 on EOI drafted in the same manner as in the attached agreement between the Moon and Jupiter, please answer the following questions:

1. Map the case scenario, entities involved, their relationship and the transactions between them.
2. To which jurisdiction(s) would you like to send a request for information? Why?
3. What information would you like to ask the competent authority of the identified jurisdiction(s)? To whom will you send your request and what details would you give to ensure that the request has a chance of success?

**Tax Convention signed on November 22, 2003 between the Moon State and the Jupiter State, which entered into force on January 1, 2007 (Extract)**

"« [...]

**Article 26: Exchange of Information**

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment or collection of the taxes which are the subject of the Convention.

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

- a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting 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 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).

[...]»

## Group discussion 2 - EXCHANGE

### Facts

The limited company (EXCHANGE Ltd with a share capital of \$150,000,000 and engaged in general trade (import, distribution), is registered in the Commercial Register under number X4012M158. Its registered office is located at xxxxx, Tokyo, Japan. It has an annual turnover of more than \$30 million since 2010. Its Tax Identification number is M0148000XXX.

EXCHANGE Ltd is scheduled for tax audit in 2019. You are the inspectors and auditors responsible for carrying out the tax audit of EXCHANGE Ltd for the years 2016, 2017 and 2018.

At the same time, an audit of the tax situation of Mr. Jack PIRATE, the Chairman and Chief Executive Officer of EXCHANGE Ltd, has been launched and will be conducted by the same team of auditors.

During an on-site inspection to the company and while reconciling the company's supplier invoices and bank statements, the inspectors noticed that some transfer orders have no record in the company's accounts. Similarly, the bank statements presented do not show the transactions carried out on these accounts.

These are 8 transfer orders (see attached file) given to Golden Bank in Singapore and Australia, two countries in which the company holds bank accounts. The transfers concerned total €506,280.52. In addition, the amounts of the transfers appear to correspond to the amounts of several invoices from a supplier of EXCHANGE Ltd, namely CONTINUE TRADE EXPORT LLP, a company registered and based in Mauritius and based in Port Louis (KWC Law firm, 48 Independence street, Port Louis).

### Work to be done:

After having carefully studied the attached file, and assuming that Japan has an EOI agreement with all the countries but Singapore, you will answer the following questions:

- What conditions should be fulfilled before contemplating EOI?
- Is the use of administrative assistance relevant for this tax audit? Why?
- What information should be requested and to which country? For what purpose?
- If you could obtain information from Singapore, what information would you request?

### Attached documents:

- *Supplier invoices*
- *Transfer orders*
- *Form for requesting information from a foreign jurisdiction*

# CONTINUE TRADE EXPORT LLP

Limited Liability Partnership,  
Partnership's Register of N° 2564. Headquarter: KWC Law firm, 48 Independence street, Port louis

**EXCHANGE LTD**  
xxx, Tokyo, Japan

Port Louis, 10 February 2015

**Ref:** Purchase of goods

**Invoice N°:** 157/2015

Description	Quantity	Unit price excluding VAT	Total price excluding VAT
<i>Maintenance equipment (021 145)</i>	257	88.84	22 832, 70 \$
Total excluding tax			00,00 \$
VAT at Applicable VAT rate			00,00 \$
<b>Total including VAT in \$</b>			<b>22 832, 70 \$</b>

Payment terms: in \$, upon receipt

# CONTINUE TRADE EXPORT LLP

Limited Liability Partnership,  
Partnership's Register of N° 2564. Headquarter: KWC Law firm, 48 Independence street, Port louis

**EXCHANGE LTD**  
xxx, Tokyo, Japan

Port Louis, 10 January 2016

**Ref:** Purchase of goods

**Invoice N°:** 15/2016

Description	Quantity	Unit price excluding VAT	Total price excluding VAT
<i>Maintenance equipment (021 145)</i>	990	88.38	87 500 \$
Total excluding tax			00,00 \$
VAT at Applicable VAT rate			00,00 \$
<b>Total including VAT in \$</b>			<b>87 500 \$</b>

Payment terms: in \$, upon receipt

# CONTINUE TRADE EXPORT LLP

Limited Liability Partnership,  
Partnership's Register of N° 2564. Headquarter: KWC Law firm, 48 Independence street, Port louis

**EXCHANGE LTD**  
xxx, Tokyo, Japan

Port Louis, 8 April 2016

**Ref:** Purchase of goods

**Invoice N°:** 168/2016

Description	Quantity	Unit price excluding VAT	Total price excluding VAT
<i>Maintenance equipment (021 145)</i>	695	88.38	614 24.10 \$
Total excluding tax			00,00 \$
VAT at Applicable VAT rate			00,00 \$
<b>Total including VAT in \$</b>			<b>61 424.10 \$</b>

Payment terms: in \$, upon receipt

# CONTINUE TRADE EXPORT LLP

Limited Liability Partnership,  
Partnership's Register of N° 2564. Headquarter: KWC Law firm, 48 Independence street, Port louis

**EXCHANGE LTD**  
xxx, Tokyo, Japan

Port Louis, 27 July 2016

**Ref:** Purchase of goods

**Invoice N°:** 318/2016

Description	Quantity	Unit price excluding VAT	Total price excluding VAT
<i>Maintenance equipment (021 145)</i>	490	88.38	43 306, 20 \$
Total excluding tax			00,00 \$
VAT at Applicable VAT rate			00,00 \$
<b>Total including VAT in \$</b>			<b>43 306, 20 \$</b>

Payment terms: in \$, upon receipt

# CONTINUE TRADE EXPORT LLP

Limited Liability Partnership,  
Partnership's Register of N° 2564. Headquarter: KWC Law firm, 48 Independence street, Port louis

**EXCHANGE LTD**  
xxx, Tokyo, Japan

Port Louis, 27 July 2016

**Ref:** Purchase of goods

**Invoice N°:** 318/2016

Description	Quantity	Unit price excluding VAT	Total price excluding VAT
<i>Maintenance equipment (021 145)</i>	617	88.84	54 814, 28 \$
Total excluding tax			00,00 \$
VAT at Applicable VAT rate			00,00 \$
<b>Total including VAT in \$</b>			<b>54 814, 28 \$</b>

Payment terms: in \$, upon receipt



# CONTINUE TRADE EXPORT LLP

Limited Liability Partnership,  
Partnership's Register of N° 2564. Headquarter: KWC Law firm, 48 Independence street, Port louis

**EXCHANGE LTD**  
xxx, Tokyo, Japan

Port Louis, 22 August 2016

**Ref:** Purchase of goods

**Invoice N°:** 524/2016

Description	Quantity	Unit price excluding VAT	Total price excluding VAT
<i>Maintenance equipment (021 145)</i>	370	88.84	32 870, 80 \$
Total excluding tax			00,00 \$
VAT at Applicable VAT rate			00,00 \$
<b>Total including VAT in \$</b>			<b>32 870, 80 \$</b>

Payment terms: in \$, upon receipt

# CONTINUE TRADE EXPORT LLP

Limited Liability Partnership,  
Partnership's Register of N° 2564. Headquarter: KWC Law firm, 48 Independence street, Port louis

**EXCHANGE LTD**  
xxx, Tokyo, Japan

Port Louis, 25 September 2017

**Ref:** Purchase of goods

**Invoice N°:** 753/2017

Description	Quantity	Unit price excluding VAT	Total price excluding VAT
<i>Maintenance equipment (021 145)</i>	877	88.84	77 912, 68 \$
Total excluding tax			00,00 \$
VAT at Applicable VAT rate			00,00 \$
<b>Total including VAT in \$</b>			<b>77 912, 68 \$</b>

Payment terms: in \$, upon receipt

# CONTINUE TRADE EXPORT LLP

Limited Liability Partnership,  
Partnership's Register of N° 2564. Headquarter: KWC Law firm, 48 Independence street, Port louis

**EXCHANGE LTD**  
xxx, Tokyo, Japan

Port Louis, 8 January 2017

**Ref:** Purchase of goods

**Invoice N°:** 05/2017

Description	Quantity	Unit price excluding VAT	Total price excluding VAT
<i>Maintenance equipment (021 145)</i>	1 414	88.84	125 619, 76 \$
Total excluding tax			00,00 \$
VAT at Applicable VAT rate			00,00 \$
<b>Total including VAT in \$</b>			<b>125 619, 76 \$</b>

Payment terms: in \$, upon receipt

**EXCHANGE**   
*Limited*

Please send us a copy of Swift by email  
at [email@exchange.com](mailto:email@exchange.com)

Tokyo, 23 April 2016

**Golden Bank**  
XXXXX  
XXXXX – Singapore

To the attention of Mr. Cambisuis

**N/Ref:** SAE/PDG/DAF/VI2016/SGM1

**Subject :** Transfer order

N/Acc N° 30003 XXXX 00XXX 0005XXXXXX36 XX

Sir,

We thank you for making the transfer of **22 832, 70 \$** to :

CONTINUE TRADE EXPORT  
HSBC Bank Indian Ocean  
Corniche West P.O Box 56 Port-Louis  
Mauritius

Account number : X48 1248 15487  
Code Swift : HBBIOMAU  
IBAN : MA58124592632152645689

Best regards.

*Signature*

**Jack PIRATE**  
CEO

**EXCHANGE**   
*Limited*

Please send us a copy of Swift by email  
at [email@exchange.com](mailto:email@exchange.com)

Tokyo, 3 February 2016

**Golden Bank**  
**BP 250**  
**MC 98007 – Singapore**

To the attention of Mr. Cambisuis

**N/Réf:** SAE/PDG/DAF/VI2016/SGM2

**Subject :** Transfer order

N/Acc N° 30003 XXXX 00XXX 0005XXXXXX36 XX

**Sir,**

We thank you for making the transfer of **87 500, 00 \$** to :

CONTINUE TRADE EXPORT  
HSBC Bank Indian Ocean  
Corniche West P.O Box 56 Port-Louis  
Mauritius

Account number : X48 1248 15487  
Code Swift : HBBIOMAU  
IBAN : MA58124592632152645689

Best regards.

*Signature*

**Jack PIRATE**  
**CEO**

**EXCHANGE**   
*Limited*

Please send us a copy of Swift by email  
at [email@exchange.com](mailto:email@exchange.com)

Tokyo, 10 May 2016

**Golden Bank**  
**BP 250**  
**MC 98007 – Singapore**

To the attention of Mr. Cambisuis

**N/Ref:** SAE/PDG/DAF/VI2016/SGM3

**Subject :** Transfer order

N/Acc N° 30003 XXXX 00XXX 0005XXXXXX36 XX

**Sir,**

We thank you for making the transfer of **61 424.10 \$** to :

CONTINUE TRADE EXPORT  
HSBC Bank Indian Ocean  
Corniche West P.O Box 56 Port-Louis  
Mauritius

Account number : X48 1248 15487  
Code Swift : HBBIOMAU  
IBAN : MA58124592632152645689

Best regards.

*Signature*

**Jack PIRATE**  
**CEO**

**EXCHANGE**   
*Limited*

Please send us a copy of Swift by email  
at [email@exchange.com](mailto:email@exchange.com)

Tokyo, 12 September 2016

**Golden Bank**  
**BP 250**  
**MC 98007 – Singapore**

To the attention of Mr. Cambisuis

**N/Ref:** SAE/PDG/DAF/VI2016/SGM4

**Subject :** Transfer order

N/Acc N° 30003 XXXX 00XXX 0005XXXXXX36 XX

Sir,

We thank you for making the transfer of **43 306, 20 \$** to:

CONTINUE TRADE EXPORT  
HSBC Bank Indian Ocean  
Corniche West P.O Box 56 Port-Louis  
Mauritius

Account number : X48 1248 15487  
Code Swift : HBBIOMAU  
IBAN : MA58124592632152645689

Best regards.

*Signature*

**Jack PIRATE**  
CEO

**EXCHANGE**   
*Limited*

Please send us a copy of Swift by email  
at [email@exchange.com](mailto:email@exchange.com)

Tokyo, le 5 February 2017

**Golden Bank  
XXXXX Canberra**

To Sir Dupont

**N/Réf:** SAE/PDG/DAF/VI2017/SGF1

**Subject :** Transfer order

N/acc N° 30003 XXXX 00XXX 0027XXXXX43 XX

**Sir,**

We thank you for making the transfer of **54 814, 28 \$** to :

CONTINUE TRADE EXPORT  
HSBC Bank Indian Ocean  
Corniche West P.O Box 56 Port-Louis  
Mauritius

Account number : X48 1248 15487  
Code Swift : HBBIO MAU  
IBAN : MA58124592632152645689

Best regards.

*Signature*

**Jack PIRATE**  
CEO



**EXCHANGE**   
*Limited*

Please send us a copy of Swift by email  
at [email@exchange.com](mailto:email@exchange.com)

Tokyo, le 11 novembre 2016

**Golden Bank**  
**XXXXX Canberra**

To Sir Dupont

**N/Réf:** SAE/PDG/DAF/VI2016/SGF1

**Subject :** Transfer order

N/acc N° 30003 XXXX 00XXX 0027XXXXX43 XX

**Sir,**

We thank you for making the transfer of **32 870, 80 \$** to :

CONTINUE TRADE EXPORT  
HSBC Bank Indian Ocean  
Corniche West P.O Box 56 Port-Louis  
Mauritius

Account number : X48 1248 15487  
Code Swift : HBBIO MAU  
IBAN : MA58124592632152645689

Best regards.

*Signature*

**Jack PIRATE**  
CEO

**EXCHANGE**   
*Limited*

Please send us a copy of Swift by email  
at [email@exchange.com](mailto:email@exchange.com)

Tokyo, 17 October 2017

**Golden Bank  
XXXXX Canberra**

To Sir Dupont

**N/Réf:** SAE/PDG/DAF/VI2017/SGF3

**Subject** : Transfer order

N/acc N° 30003 XXXX 00XXX 0027XXXXX43 XX

**Sir,**

We thank you for making the transfer of **77 912, 68 \$** to :

CONTINUE TRADE EXPORT  
HSBC Bank Indian Ocean  
Corniche West P.O Box 56 Port-Louis  
Mauritius

Account number : X48 1248 15487  
Code Swift : HBBIO MAU  
IBAN : MA58124592632152645689

Best regards.

*Signature*

**Jack PIRATE  
CEO**

**EXCHANGE**   
*Limited*

Please send us a copy of Swift by email  
at [email@exchange.com](mailto:email@exchange.com)

Tokyo, 18 February 2017

**Golden Bank  
XXXXX Canberra**

To Sir Dupont

**N/Réf:** SAE/PDG/DAF/VI2017/SGF2

**Subject :** Transfer order

N/acc N° 30003 XXXX 00XXX 0027XXXXX43 XX

**Sir,**

We thank you for making the transfer of **125 619, 76 \$** to :

CONTINUE TRADE EXPORT  
HSBC Bank Indian Ocean  
Corniche West P.O Box 56 Port-Louis  
Mauritius

Account number : X48 1248 15487  
Code Swift : HBBIOMAU  
IBAN : MA58124592632152645689

Best regards.

*Signature*

**Jack PIRATE  
CEO**