

NASKAH SINTESIS KONVENSI DAN P3B INDONESIA-RUSIA

Naskah ini merupakan naskah sintesis untuk penerapan P3B Indonesia-Rusia yang dimodifikasi dengan Konvensi yang ditandatangani Pemerintah Republik Indonesia dan Pemerintah Federasi Rusia pada 7 Juni 2017.

Naskah sintesis ini disusun berdasarkan posisi Konvensi Indonesia yang disampaikan ke Penyimpan pada 28 April 2020 dan posisi Konvensi Rusia yang disampaikan ke Penyimpan pada 18 Juni 2019. Posisi Konvensi dapat berubah sebagaimana yang diatur dalam Konvensi. Perubahan atas posisi Konvensi dapat mempengaruhi dampak Konvensi atas P3B Indonesia-Rusia.

Tujuan naskah sintesis ini hanyalah untuk membantu dalam memahami penerapan Konvensi terhadap P3B Indonesia-Rusia dan tidak dapat dijadikan sebagai sumber hukum. Naskah asli Konvensi dan P3B Indonesia-Rusia tetap menjadi dasar hukum yang berlaku.

Pokok-pokok pengaturan dalam Konvensi yang berlaku untuk P3B Indonesia-Rusia dinyatakan dalam kotak-kotak dalam konteks ketentuan yang relevan dari P3B Indonesia-Rusia. Kotak-kotak tersebut dimasukkan sesuai dengan urutan ketentuan dalam P3B Indonesia-Rusia.

Beberapa terminologi dalam Konvensi telah diubah untuk menyesuaikan dengan terminologi yang digunakan dalam P3B Indonesia-Rusia (seperti "*Covered Tax Agreement*" dan "*Convention*", "*Contracting Jurisdictions*" dan "*Contracting States*"), untuk mempermudah pemahaman atas Konvensi. Perubahan terminologi tersebut dimaksudkan untuk membantu pembaca dan bukan untuk mengubah substansi pengaturan dalam Konvensi. Lebih lanjut, beberapa bagian pengaturan dalam Konvensi juga diubah untuk menjelaskan ketentuan P3B Indonesia-Rusia yang saat ini berlaku: narasi deskriptif diganti dengan rujukan ketentuan P3B Indonesia-Rusia yang saat ini berlaku untuk membantu pembaca.

Seluruh rujukan ke ketentuan P3B Indonesia-Rusia harus dimaknai sebagai rujukan ke ketentuan P3B Indonesia-Rusia yang dimodifikasi Konvensi setelah Konvensi telah berlaku efektif.

Referensi

Posisi Konvensi Indonesia dan Rusia yang disampaikan ke Penyimpan dapat dilihat di [laman Penyimpan Konvensi \(OECD\)](#).

Keberlakuan Efektif Konvensi

Pokok-pokok pengaturan dalam Konvensi yang berlaku untuk P3B Indonesia-Rusia tidak berlaku efektif pada saat yang sama dengan ketentuan P3B Indonesia-Rusia. Masing-masing pengaturan dalam Konvensi dapat berlaku efektif pada tanggal yang berbeda tergantung pada jenis pajaknya (pajak-pajak yang dipotong atau dipungut di negara sumber atau pajak-pajak lainnya) dan pilihan yang dibuat oleh Pemerintah Republik Indonesia and Pemerintah Federasi Rusia dalam posisi Konvensinya.

Tanggal penyampaian instrumen pengesahan: 28 April 2020 untuk Indonesia dan 18 Juni 2019 untuk Rusia.

Saat belaku Konvensi: 1 Agustus 2020 bagi Indonesia dan 1 Oktober 2019 bagi Rusia.

The Government of the Republic of Indonesia and the Government of the Russian Federation, **[REPLACED by paragraph 1 of Article 6 of the MLI]** **[DESIRING** to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,]

The following paragraph 1 of Article 6 of the MLI replaces the text referring to an intent to eliminate double taxation in the preamble of this Agreement:

ARTICLE 6 OF THE MLI - PURPOSE OF A COVERED TAX AGREEMENT

Intending to eliminate double taxation with respect to the taxes covered by this Agreement 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 the Agreement for the indirect benefit of residents of third jurisdictions),

HAVE AGREED AS FOLLOWS:

Article 1
PERSONAL SCOPE

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

The following paragraph 1 of Article 11 of the MLI applies and supersedes the provisions of this Agreement:

ARTICLE 11 OF THE MLI- APPLICATION OF TAX AGREEMENTS TO RESTRICT A PARTY'S RIGHT TO TAX ITS OWN RESIDENTS

The Agreement shall not affect the taxation by a Contracting State of its residents, except with respect to the benefits granted under Article 9 (as modified by paragraph 1 of Article 17 of the MLI), Article 17, Article 18, Article 19, Article 21, Article 22, Article 23, and Article 25 of the Agreement.

Article 2
TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of one of the Contracting States, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on income from the alienation of movable or immovable property.
3. The taxes to which the Agreement shall apply are:
 - (a) in the case of the Republic of Indonesia:
the income tax imposed under the Undang-undang Pajak Penghasilan 1984 (Law no. 7 of 1983 as amended)
(hereinafter referred to as "Indonesian tax").
 - (b) in the case of the Russian Federation:
 - (i) the tax on profits of enterprises and organisations;
 - (ii) the tax on income of individuals
(hereinafter referred to as "Russian tax");
4. The Agreement shall also apply to any identical or substantially similar taxes on income which are subsequently imposed after the date of signature of the Agreement in addition to, or in place of, those referred to in paragraph 3. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws.

Article 3
GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:
 - (a) the terms "Contracting State" and "the other Contracting State" mean the Republic of Indonesia (Indonesia) or the Russian Federation (Russia);
 - (b) the term "the Russia" means the territory of the Russian Federation as well as its exclusive economic zone and continental shelf, defined in conformity with the UN Convention on the Law of the Sea, 1982;
 - (c) the term "Indonesia" means the territory of the Republic of Indonesia as defined in its laws, and its exclusive economic zone and continental shelf in which the Republic of Indonesia exercises jurisdiction and sovereign rights in accordance with international law;
 - (d) the term "person" includes an individual, a company and any other body of persons;
 - (e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - (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 operated by a resident of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
 - (h) the term "competent authority" means:
 - (i) in the case of Indonesia - the Minister of Finance or his authorized representative;
 - (ii) in the case of the Russian Federation - the Ministry of Finance or its authorized representative;
 - (i) the term "citizen" means any individual possessing the citizenship of a Contracting State.
2. As regards the application of this Agreement by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Agreement applies.

Article 4
RESIDENT

1. For the purposes of the Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to taxation therein by reason of his domicile, residence, place of incorporation, place of management or any other criterion of a similar nature.
2. Where by reason of the provisions of paragraph 1, an individual is a resident of both Contracting States, then his status shall be determined as follows:
 - (a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
 - (b) if the State in which he has his centre of vital interests cannot be determined, or if he does not have a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
 - (c) if he has an habitual abode in both States or in neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the States shall settle the question by mutual agreement.

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 of a Contracting State is wholly or partly carried on in the other Contracting State.
2. The term "permanent establishment" includes especially:
 - (a) a place of management;
 - (b) a branch;
 - (c) an office;
 - (d) a factory;
 - (e) a workshop;
 - (f) a warehouse or premises used as [a] sales outlet;
 - (g) a farm or plantation;
 - (h) a mine, an oil or gas well, quarry or any other place of extraction or exploration of natural resources, drilling rig or ship used for exploration or exploitation of natural resources.
3. The term "permanent establishment" likewise encompasses:

[MODIFIED by paragraph 1 of Article 14 of the MLI]

 - [(a) a building site or a construction project, or supervisory activities in connection therewith, but only where such site, project or activities continue in one of the Contracting States for a period of more than 3 months;
 - (b) an assembly or installation project which exists for more than 3 months;]

The following paragraph 1 of Article 14 of the MLI applies and supersedes the provisions of this Agreement:

ARTICLE 14 OF THE MLI - SPLITTING-UP OF CONTRACTS

For the sole purpose of determining whether the 3-month period referred to in subparagraphs (a) and (b) of paragraph 3 of Article 5 of the Agreement has been exceeded:

- a) where an enterprise of a Contracting State carries on activities in the other Contracting State at a place that constitutes a building site or a construction project, or supervisory activities in connection therewith, or an assembly or installation project, and these activities are carried on during one or more periods of time that, in the aggregate, exceed 30 days without exceeding the period or periods referred to in subparagraphs (a) and of paragraph 3 of Article 5 of the Agreement; and
- b) where connected activities are carried on in that other Contracting State in connection with the same building site, construction project, or supervisory activities in connection therewith, or an assembly or installation project, 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 aggregate period of time during which the first mentioned enterprise has carried on activities at that building site, construction project, or supervisory activities in connection therewith.

- (c) the furnishing of services, including consultancy services by an enterprise through employees or other personnel engaged by the enterprise for such purpose.
4. **[MODIFIED by paragraph 2 of Article 13 of the MLI]** [Notwithstanding the preceding provisions of this Article the term "permanent establishment" shall be deemed not to include:
 - (a) the use of the facilities solely for the purpose of storage or display 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 or display;
 - (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
 - (e) the maintenance of a fixed place of business solely for the purpose of advertising, or for the supply of information;
 - (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.]

The following paragraph 2 of Article 13 of the MLI applies to paragraph 4 of Article 5 of this Agreement:

ARTICLE 13 OF THE MLI - ARTIFICIAL AVOIDANCE OF PERMANENT
ESTABLISHMENT STATUS THROUGH THE SPECIFIC ACTIVITY EXEMPTIONS
(Option A)

Notwithstanding Article 5 of the Agreement, the term "permanent establishment" shall be deemed not to include:

- a) the activities specifically listed in paragraph 4 of Article 5 of the Agreement as activities deemed not to constitute a permanent establishment, whether or not that exception from permanent establishment status is contingent on the activity being of a preparatory or auxiliary character;
- b) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any activity not described in subparagraph a);
- c) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) and b),
provided that such activity or, in the case of subparagraph c), the overall activity of the fixed place of business, is of a preparatory or auxiliary character.

The following paragraph 4 of Article 13 of the MLI applies to paragraph 4 of Article 5 of this Agreement (as modified by paragraph 2 of Article 13 of the MLI):

ARTICLE 13 OF THE MLI - ARTIFICIAL AVOIDANCE OF PERMANENT
ESTABLISHMENT STATUS THROUGH THE SPECIFIC ACTIVITY EXEMPTIONS

Article 5 of the Agreement (as modified by paragraph 2 of Article 13 of the MLI) 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 Article 5 of the Agreement; 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.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person -- other than an agent of an independent status to whom paragraph 7 applies -- is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:
 - (a) **[REPLACED by paragraph 1 of Article 12 of the MLI]** [has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise;] or

The following paragraph 1 of Article 12 of the MLI replaces subparagraph (a) of paragraph 5 of Article 5 of this Agreement:

ARTICLE 12 OF THE MLI - ARTIFICIAL AVOIDANCE OF PERMANENT
ESTABLISHMENT STATUS THROUGH COMMISSIONNAIRE ARRANGEMENTS AND
SIMILAR STRATEGIES

Notwithstanding Article 5 of the Agreement, but subject to paragraph 2 of Article 12 of the MLI, where a person is acting in a Contracting State on behalf of an enterprise and, in doing so, 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:

- a) in the name of the enterprise; or
- b) 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
- c) for the provision of services by that enterprise,
that enterprise shall be deemed to have a permanent establishment in that Contracting State in respect of any activities which that person undertakes for the enterprise unless these activities, if they were exercised by the enterprise through a fixed place of business of that enterprise situated in that Contracting State, would not cause that fixed place of business to be deemed to constitute a permanent establishment under the definition of permanent establishment included in the provisions of Article 5 of the Agreement.

- (b) manufactures or processes in that State for the enterprise goods or merchandise belonging to the enterprise.
6. An insurance enterprise of a Contracting State shall, except with regard to reinsurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in that other State or insures risks situated therein through an employee or through a representative who is not an agent of an independent status within the meaning of paragraph 7.
7. **[REPLACED by paragraph 2 of Article 12 of the MLI]** [An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other Contracting State through a broker, general commissioner or any other agent of independent status, provided that such persons are acting in the ordinary course of their business.]

The following paragraph 2 of Article 12 of the MLI replaces paragraph 7 of Article 5 of this Agreement:

**ARTICLE 12 OF THE MLI - ARTIFICIAL AVOIDANCE OF PERMANENT
ESTABLISHMENT STATUS THROUGH COMMISSIONNAIRE ARRANGEMENTS AND
SIMILAR STRATEGIES**

Paragraph 1 of Article 12 of the MLI 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 Contracting 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.

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

The following paragraph 1 of Article 15 of the MLI applies to provisions of this Agreement:

**ARTICLE 15 OF THE MLI - DEFINITION OF A PERSON CLOSELY RELATED TO AN
ENTERPRISE**

For the purposes of Article 5 of the Agreement, a person 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 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 percent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person 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.

**Article 6
INCOME FROM IMMOVABLE PROPERTY**

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other 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. Ships, boats and aircraft shall not be regarded as immovable property.
The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, rights known as usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources.
3. The provisions of paragraph 1 shall also apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

**Article 7
BUSINESS PROFITS**

1. The profits of an enterprise of a Contracting State shall be taxable only in that 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 State but only so much of them as is attributable to:
 - (a) that permanent establishment;
 - (b) sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or
 - (c) other business activities carried on in that other State of the same or similar kind as those effected through that permanent establishment.
2. Subject to the provisions of paragraph 3, 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 business of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of [a] banking enterprise, by way of interest on money lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts

charged (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of [the] enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of [a] banking enterprise, by way of interest on money lent to the head office of the enterprise or any of its other offices.

4. For the purpose 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.
5. 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.

Article 8
INCOME FROM INTERNATIONAL TRANSPORTATION

1. Income from sources within a Contracting State derived by a resident of the other Contracting State from the operation of ships in international traffic may be taxed in the first-mentioned State, but the tax imposed shall be reduced by an amount equal to 50 percent thereof.
2. Income from the operation of aircraft in international traffic shall be taxable only in the Contracting State of which person operating the aircraft is a resident.
3. The provisions of paragraphs 1 and 2 shall also apply to income from the participation in a pool, a joint business or an international operating agency.

Article 9
ADJUSTMENT OF TAXABLE INCOME

[MODIFIED by paragraph 1 of Article 17 of the MLI] [Where:

- (a) a person who is a resident of a Contracting State participates directly or indirectly in the management, control or capital of a person who is a resident of the other Contracting State, or
- (b) the same persons participate directly or indirectly in the management, control or capital of a resident of a Contracting State and a resident of the other Contracting State,

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

The following paragraph 1 of Article 17 of the MLI applies and supersedes the provisions of this Agreement:

ARTICLE 17 OF THE MLI - CORRESPONDING ADJUSTMENTS

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 the Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

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 State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that State, but if the recipient is the beneficial owner of the dividends, the tax so charged shall not exceed 15 percent of the gross amount of the dividends.
3. The term "dividends" as used in this Article means income from 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 as income from shares by the laws of the State of which the company making the distribution is a resident.
4. The provisions of paragraphs 1 and 2 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, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Notwithstanding any other provision of this Agreement, where a company which is a resident of a Contracting State has a permanent establishment in the other Contracting State, the profits of the permanent establishment may be subjected to an additional tax in that other State in accordance with its law, but the additional tax so charged shall not exceed 12.5 percent of the amount of such profits after deducting therefrom income tax and other taxes on income imposed thereon in that other State.
6. The rates of tax in paragraph 2 and in paragraph 5 of this Article shall not affect the rate of tax applied in any production sharing contracts or any other similar contracts relating to [the] oil and gas sector or other mining sector concluded by the Government of Indonesia, its instrumentality, its relevant state oil and gas company or any other entity thereof with a person who is a resident of the Russian Federation.

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 State.*
2. *However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 15 percent of the gross amount of the interest.*
3. *Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and derived by the Government of the other Contracting State including local authorities thereof, a political subdivision or the Central Bank, shall be exempt from tax in the first-mentioned State.*
4. *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 income assimilated to income from money lent by the taxation law of the State in which the income arises, including interest on deferred payment sales.*
5. *The provisions of paragraphs 1 and 2 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, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.*
6. *Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority, or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.*
7. *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 State.*
2. *However, if the recipient is the beneficial owner of such royalties the tax so charged in the Contracting State in which they arise and according to the laws of that State shall not exceed 15 percent of the gross amount of the royalties.*
3. *The term "royalties" in this Article means payments, whether periodical or not, and however described, to the extent to which they are made as consideration for:*
 - (a) *the use of, or the right to use, any copyright, patent, design or model, plan, secret formula or process, trade mark or other like property or right; or*
 - (b) *the use of, or the right to use, any industrial, commercial or scientific equipment; or*
 - (c) *the supply of scientific, technical, industrial or commercial knowledge or information; or*
 - (d) *the supply of any assistance that is ancillary and subsidiary to, and is furnished as a means of enabling the initial application of, any such property or right as is mentioned in subparagraph (a), any such equipment as is mentioned in subparagraph (b) or any such knowledge or information as is mentioned in subparagraph (c); or*
 - (e) *the use of, or the right to use:*
 - (i) *motion picture films; or*
 - (ii) *films or video tapes for use in connection with television; or*
 - (iii) *tapes for use in connection with radio broadcasting; or*
 - (f) *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 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, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.*
5. *Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority, or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base 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
INCOME FROM ALIENATION OF PROPERTY

1. *Income 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 State.*
2. *Income 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 or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State. The term "movable property" means property which is recognised as such by the legislation of the Contracting State where such property is located.*
3. **[MODIFIED by paragraph 4 of Article 9 of the MLI]** *[Income from the alienation of any property other than that referred to in the preceding paragraphs shall be taxable only in the Contracting State of which the alienator is a resident.]*

The following paragraph 4 of Article 9 of the MLI applies and supersedes the provisions of this agreement:

ARTICLE 9 OF THE MLI - CAPITAL GAINS FROM ALIENATION OF SHARES OR
INTERESTS OF ENTITIES DERIVING THEIR VALUE PRINCIPALLY FROM
IMMOVABLE PROPERTY

For purposes of the Agreement, 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 (real property) situated in that other Contracting State.

Article 14
INCOME FROM INDEPENDENT PERSONAL SERVICES

1. *Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character performed in the other Contracting State may be taxed in that other Contracting State.*
2. *The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities, as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.*

Article 15
EMPLOYMENT INCOME

1. *Subject to the provisions of Articles 16, 17, 18 and 19, 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 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 State.*
2. *Notwithstanding the provisions of paragraph 1, 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 State if:*
 - (a) *the recipient is present in that other State for a period or periods not exceeding in the aggregate 90 days within any calendar year concerned; and*
 - (b) *the remuneration is paid by, or on behalf of, an employer who is not a resident of that other State; and*
 - (c) *the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.*
3. *Notwithstanding the preceding provisions of this Article remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic shall be taxable only in the Contracting State of which the operator is a resident.*

Article 16
DIRECTORS' FEES

1. *Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or any other similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.*
2. *The remuneration which a person to whom paragraph 1 applies derives from the company in respect of the discharge of day-to-day functions of a managerial or technical nature may be taxed in accordance with the provisions of Article 15.*

Article 17
PENSIONS

Any pension or other similar remuneration, paid from sources in a Contracting State, shall be taxable only in that State.

Article 18
INCOME FROM GOVERNMENT SERVICE

1. (a) *Remuneration, other than a pension, paid by a Contracting State, a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or authority shall be*

taxable only in that State.

- (b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the individual is a resident of that State who:
- (i) is a citizen of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2. The provisions of Articles 15, 16 and 17 shall apply to remuneration and anuis in respect of services rendered in connection with a business carried on by a Contracting State, a political subdivision or a local authority thereof.

Article 19
INCOME OF PROFESSORS, TEACHERS, RESEARCHERS, STUDENTS
AND BUSINESS APPRENTICES

1. An individual who visits a Contracting State at the invitation of that State or of a university, college, school, museum or other cultural institution of that State or under an official programme of scientific, research or cultural exchange for a period not exceeding two years primarily for the purpose of teaching, giving lectures or carrying out research at such institution and who is, or was immediately before that visit, a resident of the other Contracting State shall be exempt from tax in the first-mentioned State on his remuneration for such activity, provided that such remuneration is derived by him from the other Contracting State.
2. Payments which a student, apprentice or business trainee 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 State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training, shall not be taxed in that first-mentioned State, provided that such payments are made to him from the other Contracting State.

Article 20
OTHER INCOME

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Agreement and derived from sources within the other Contracting State may be taxed in that other State.

Article 21
METHOD OF ELIMINATION OF DOUBLE TAXATION

Where a resident of a Contracting State derives income from the other Contracting State, the amount of tax on that income payable in that other Contracting State in accordance with the provisions of this Agreement, may be credited against the tax levied in the first-mentioned Contracting State imposed on that resident. The amount of credit, however, shall not exceed the amount of the tax of the first-mentioned State on that income computed in accordance with its taxation laws and regulations.

Article 22
NON-DISCRIMINATION

1. Citizens of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which citizens of that other State in the same circumstances are or may be subjected.
2. 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 State than the taxation levied on the enterprises of that other State carrying on the same activities.
3. 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 State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.
4. The provisions of this Agreement shall not be construed to restrict in any manner any exclusion, exemption, deduction, credit, or other allowance now or hereafter accorded by the laws of a Contracting State in the determination of the tax imposed by that State.
5. In this Article the term "taxation" means taxes which are the subject of this Agreement.

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 him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a citizen. **[REPLACED by second sentence of paragraph 1 of Article 16 of the MLI]** [The case must be presented within two years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.]

The following second sentence of paragraph 1 of Article 16 of the MLI replaces the second sentence of paragraph 1 of Article 23 of this Agreement:

ARTICLE 16 OF THE MLI - MUTUAL AGREEMENT PROCEDURE

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. **[MODIFIED by second sentence of paragraph 2 of Article 16 of the MLI]** [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 this Agreement.]

The following second sentence of paragraph 2 of Article 16 of the MLI applies to paragraph 2 of Article 23 of this Agreement:

ARTICLE 16 OF THE MLI - MUTUAL AGREEMENT PROCEDURE

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. The competent authorities, through consultations, shall develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure provided for in this Article.*

Article 24

EXCHANGE OF INFORMATION

1. *The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement, insofar as the taxation thereunder is not contrary to the Agreement, in particular for the prevention of fraud or evasion of such taxes. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State. However, if the information is originally regarded as secret in the transmitting State it shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of the Agreement. Such persons or authorities shall use the information only for such purposes but may disclose the information in public court proceedings or in judicial decisions.*
2. *In no case shall the provisions of paragraph 1 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 State policy.*

Article 25

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR ESTABLISHMENTS

Nothing in this Agreement shall affect the fiscal privileges of the members of diplomatic missions or consular establishments under the general rules of international law or under the provisions of special agreements.

Article 26

LIMITATION OF BENEFITS

[REPLACED by paragraph 1 of Article 7 of the MLI] *[Each of the Contracting States shall endeavour to collect on behalf of the other Contracting State such taxes imposed by that other Contracting State as will ensure that any exemption or reduced rate of tax granted under this Agreement by that other Contracting State shall not be enjoyed by persons not entitled to such benefits. The competent authorities of the Contracting States may consult together for the purpose of giving effect to this Article.]*

The following paragraph 1 of Article 7 of the MLI replaces Article 26 of this Agreement:

ARTICLE 7 OF THE MLI - PREVENTION OF TREATY ABUSE
(Principal purposes test provision)

Notwithstanding any provisions of the Agreement, a benefit under the 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 the Agreement.

Article 27

ENTRY INTO FORCE

1. *This Agreement shall enter into force on the later of the dates on which the respective Governments notify each other in writing that the formalities required by the legislation of their respective States have been complied with.*
2. *The provisions of this Agreement shall have effect:*
 - (a) *in respect of tax withheld at the source, to income derived on or after 1 January in the year next following that in which the Agreement enters into force; and*
 - (b) *in respect of other taxes on income, for taxable years beginning on or after 1 January in the year next following that in which the Agreement enters into force.*

Article 28
TERMINATION

1. This Agreement shall remain in force until terminated by a Contracting State. Either of [the] Contracting States may terminate the Agreement, through diplomatic channels, by giving written notice of termination on or before the thirtieth day of June of any calendar year following after the period of 5 years from the year in which the Agreement enters into force.
2. In such case, the Agreement shall cease to have effect:
 - (a) in respect of tax withheld at source, to income derived on or after 1 January in the year next following that in which the notice of termination is given;
 - (b) in respect of other taxes on income, for taxable years beginning on or after 1 January in the year next following that in which the notice of termination is given.

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

DONE at Jakarta, this 12th day of March 1999, in Indonesian, Russian, and English languages in duplicate. All three texts are equally authentic. In case of any divergence, the interpretation shall be given in accordance with the English text.

**FOR THE GOVERNMENT OF
THE REPUBLIC OF INDONESIA**

sgd.

**FOR THE GOVERNMENT OF
THE RUSSIAN FEDERATION**

sgd.

DIREKTUR JENDERAL,

ttd.

SURYO UTOMO