

NASKAH SINTESIS KONVENSI DAN P3B INDONESIA-UNI EMIRAT ARAB

Naskah ini merupakan naskah sintesis untuk penerapan P3B Indonesia-Uni Emirat Arab yang dimodifikasi dengan Konvensi yang ditandatangani Pemerintah Republik Indonesia pada 7 Juni 2017 dan Pemerintah Uni Emirat Arab pada 27 Juni 2018.

Naskah sintesis ini disusun berdasarkan posisi Konvensi Indonesia yang disampaikan ke Penyimpan pada 28 April 2020 dan posisi Konvensi Uni Emirat Arab yang disampaikan ke Penyimpan pada 29 Mei 2019. Posisi Konvensi dapat berubah sebagaimana yang diatur dalam Konvensi. Perubahan atas posisi Konvensi dapat mempengaruhi dampak Konvensi atas P3B Indonesia-Uni Emirat Arab.

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

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

Beberapa terminologi dalam Konvensi telah diubah untuk menyesuaikan dengan terminologi yang digunakan dalam P3B Indonesia-Uni Emirat Arab (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-Uni Emirat Arab yang saat ini berlaku: narasi deskriptif diganti dengan rujukan ketentuan P3B Indonesia-Uni Emirat Arab yang saat ini berlaku untuk membantu pembaca.

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

Referensi

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

Keberlakuan Efektif Konvensi

Pokok-pokok pengaturan dalam Konvensi yang berlaku untuk P3B Indonesia-Uni Emirat Arab tidak berlaku efektif pada saat yang sama dengan ketentuan P3B Indonesia-Uni Emirat Arab. 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 Uni Emirat Arab dalam posisi Konvensinya.

Tanggal penyampaian instrumen pengesahan: 28 April 2020 untuk Indonesia dan 29 Mei 2019 untuk Uni Emirat Arab.

Saat berlaku Konvensi: 1 Agustus 2020 bagi Indonesia dan 1 September 2019 bagi Uni Emirat Arab.

The Government of the Republic of Indonesia and the Government of United Arab Emirates, **[REPLACED by paragraph 1 of Article 6 of the MLI]** [desiring to [promote and strengthen the economic relation by] concluding 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 the 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.

Article (2)
TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State, or its political subdivisions or local authorities 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 gains from alienation of movable or immovable property.
3. The existing taxes to which this Agreement shall apply
 - (a) In the case of Indonesia:
the income tax imposed under the Undang-undang Pajak Penghasilan 1984 (Law No. 7 of 1983 as amended) (income tax laws).
(hereinafter referred to as Indonesian tax);
 - (b) In the case of the United Arab Emirates:
income tax, corporation tax.
(hereinafter referred to as U.A.E. tax).
4. This Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes referred to in paragraph 2. The competent authorities of the Contracting States shall notify each other of any substantial changes which are made in their respective taxation laws within a reasonable period of time after such changes.

Article (3)
GENERAL DEFINITION

1. For the purpose of this Agreement, unless the context otherwise requires:
 - (a) the terms a "Contracting State" and "the other Contracting State" mean, as the context requires, the United Arab Emirates of the Republic of Indonesia.
 - (b) the term "Indonesia" comprises the territory of the Republic of Indonesia as defined in its laws and the adjacent areas over which the Republic of Indonesia has sovereignty, sovereign rights or jurisdiction in accordance with the provisions of the United Nations Convention on the Law of the Sea, 1982;
 - (c) the term "United Arab Emirates", means the United Arab Emirates and when used, in geographical sense, means its territory, including islands, territorial sea, and any other area in the sea or in the air within which the United Arab Emirates exercises under its law and in conformity with international law, sovereign rights or its jurisdiction;
 - (d) the term "tax" means U.A.E tax or Indonesian tax as the context requires;
 - (e) the term "person" includes an individual, a company, or any other body of persons;
 - (f) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - (g) 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;
 - (h) the term "national" means all individuals possessing the nationality of a Contracting State and all legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State.
2. The term "international traffic" means any transport by ships or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State.
3. The term "competent authority" means:
 - (i) in case of the Republic Indonesia, the Minister of Finance or his authorised representative; and
 - (ii) in the case of U.A.E., the Minister of Finance and Industry or his authorised representative.
4. In the application of this Agreement by either of the Contracting States, any term not defined therein shall -- unless the context otherwise requires -- have the meaning which it has under the laws of that State concerning the taxes to which the Agreement applies.

Article (4)

RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means a person who is under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.
2. Where by reason of the provisions of paragraph 1 an individual is deemed to be a resident of both Contracting States, then his status shall be defined as follows:
 - (i) 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 Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);
 - (ii) if the Contracting 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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
 - (iii) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
 - (iv) if he 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 one a person other than an individual is a resident of both Contracting States then it shall be deemed to be a resident of the State in which its place of effective management is situated.

Article (5)

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business in which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" shall include specifically:
 - (a) a place of management;
 - (b) a branch;
 - (c) an office;
 - (d) a factory;
 - (e) a workshop;
 - (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources, drilling or working ships used for exploration and exploitation of natural resources;
 - (g) a farm or plantation;
3. The term "permanent establishment" likewise encompasses:
 - (a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than six months;
 - (b) the furnishing of services, including consultancy services, by an enterprise of a Contracting State through employees or other personnel in the other Contracting State, provided that such activities continue for the same project or a connected project for a period or periods aggregating more than six months.
4. Notwithstanding the provisions of paragraphs 1 to 3, the term "permanent establishment shall be deemed not to include:
 - (a) the use of facilities solely for the purpose of storage, 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 carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
 - (f) the sale of goods or merchandise belonging to the enterprise displayed in the frame of an occasional temporary fair or exhibition after the closing of the said or exhibition; provided that involving parties or companies fulfil all requirements in either Contracting State.
5. Notwithstanding the provisions of paragraphs 1 and 2 a person acting in a Contracting State on behalf of an enterprise of the other Contracting State - other than an agent of an independent status to whom paragraph 6 applies - shall be deemed to be a permanent establishment in the first-mentioned State if:
 - (a) he has in the first-mentioned State a general authority to negotiate and conclude contracts for or on behalf of such enterprise, or
 - (b) he maintains in the first-mentioned State a stock of goods or merchandise from which he regularly sells goods or merchandise for or on behalf of such enterprise,
6. A broker, a commission agent or other agent of genuinely independent status who merely acts as an intermediary between an enterprise of one of the Contracting States and a prospective customer in the other Contracting State, shall not be deemed to be a permanent establishment in that other Contracting State provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.

7. *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 a company or a permanent establishment of the other.*

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 Contracting State.*
2. *The term "immovable property" shall have the meaning which it has under the laws of the Contracting State in which the property in question is situated. 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, buildings, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right of work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.*
3. *The provisions of paragraph 1 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 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 only be taxable 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 permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. This provision is applicable irrespective of the limitation provided by the internal laws.*
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 this Article shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the methods of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.*
5. *No profits shall be attributed to a permanent establishment by reason of the mere purchase by the permanent establishment of goods or merchandise for the enterprise.*
6. *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 a good and sufficient reason to the contrary.*
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.*

Article (8)
SHIPPING AND AIR TRANSPORT

1. *Notwithstanding the provision of paragraph 1 of Article 7, profits derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic in the other Contracting State shall be taxable only in the first mentioned Contracting State.*
2. *For the purpose of this Article profits from the operation of ships or aircraft in international traffic shall include:*
 - a) profits derived occasionally from the rental on a bareboat basis of ships or aircraft used in international traffic,*
 - b) profits derived from the use or rental of containers, if such profits are supplementary or incidental to the profits to which the provisions of paragraph 1 apply,*

c) interest on funds directly connected with such operation.

3. The provisions of paragraphs 1 and 2 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 participated 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. **[REPLACED by paragraph 1 of Article 17 of the MLI]** [Where a Contracting State includes in the profits of an enterprise of that State, and taxes accordingly, profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other 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 paid to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.]

The following paragraph 1 of Article 17 of the MLI replaces paragraph 2 of Article 9 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.

3. A Contracting State shall not change the profits of an enterprise in the circumstances referred to in paragraph 2 after the expiry of the time limits provided in its tax laws.

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 such dividends may also be taxed in the Contracting State in 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 dividend, the tax so charged shall not exceed 10% (ten percent) of the gross amount of the dividends.
3. The provisions of paragraph 2 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid with due consideration to the law for foreign investment in either of the Contracting States
4. The term "dividends" as used in this Article means income from shares, 'jouissance' shares or "jouissance" rights, 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 as income from shares by the laws of the State of which the company making the distribution is a resident.
5. 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 or 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 14 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 State may not impose any tax on the dividends paid by the company, except insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or fixed base situated in that other 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 State.
7. Notwithstanding any other provisions 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 5% (five percent) of the amount of such profits after deducting therefrom income tax and other taxes on income imposed thereon in that other 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, such interest may be taxed in the Contracting State in which it arises and according to the law of that State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 5% (five 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, the Central Bank or any financial institution controlled by that Government, or interest derived on loans guaranteed by that Government 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 a 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. Penalty charges for late payments shall not be regarded as interest for the purpose of this Article.*
- 5. The provisions of paragraph 1 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 or fixed base situated therein, or the person that 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 effectively connected with such permanent establishment or fixed base, in such case the provisions of Article 7 and Article 15, as the case may be, shall apply, [sic]*
- 6. Interest shall be deemed to arise in a Contracting State when the payer is the Government of that State, a political subdivision, a local authority thereof, or a resident of that State. Where, however, the person paying the interest, whether he is 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 given 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 shall be taxed in that other State.*
- 2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties then the tax so charged shall not exceed 5% (five percent) of the gross amount of such royalties.*
- 3. The term "royalties" as used in this Article means payment of any kind received as a consideration for the use of, or the right to use any copyright of literary, artistic, or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience but the term royalties does not include payment in respect of the operation of mines or quarries or exploitation of natural resources or related activities.*
- 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 located 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 directly connected with such permanent establishment or fixed base. In such case the provisions of Articles 7 or 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, thereof 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 Contracting State in which the permanent establishment or a 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 given to the other provisions of this Agreement.

Article (13)

GAINS FROM THE ALIENATION OF PROPERTY

1. Gains derived by a resident of a Contracting State from the alienation of immovable property, as defined in paragraph 2 of Article 6, and situated in the other Contracting State may be taxed in the Contracting State in which such property is situated
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment or a fixed base 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 together with the whole enterprise) or of such a fixed base may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic and movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State where the enterprise is a resident.
4. Gains from the alienation of any property other than that referred to in paragraphs 1 to 3, shall be taxable only in the Contracting State of which the alienator is a resident.

Article (14)

INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character may be taxed by that Contracting State, unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; if he has such a fixed base the income may be taxed in the other Contracting State, but only as much as is attributable to that fixed base.
2. The term "professional services" include especially independent scientific, literary and artistic education or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, accountants and dentists.

Article (15)

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles (19), (20), (21), salaries, wages and other similar remuneration derived by 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 the other Contracting State for a period or periods not exceeding in the aggregate 183 days in the fiscal 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 borne by a permanent establishment or a fixed base which the employer has in the other Contracting 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 taxed only in that Contracting State.

Article (16)

TEACHERS AND RESEARCHERS

An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State and who, at the invitation of any university, college, school or other similar educational institution or scientific research institution visits that other State for a period not exceeding three years solely for the purpose of teaching or research or both at such educational institution or scientific research institution shall be exempted from tax for a period not exceeding three years in that other State on any remuneration for such teaching or research which is subject to tax in the first-mentioned State.

Article (17)

STUDENTS AND TRAINEES

1. A student or business apprentice who, immediately before visiting a Contracting State is or was a resident of the other Contracting State and who is present in the first mentioned Contracting State for the purpose of his education or training shall be exempt from tax in that first - mentioned Contracting State on:
 - (a) payments made to him by persons residing outside that first - mentioned Contracting State for the purpose of his maintenance, education or training; and
 - (b) remuneration from employment in that first-mentioned Contracting State, provided that such employment being a full time employment lasts not more than 183 days in the years of assessment.

2. *An individual who, immediately before visiting a Contracting State is or was a resident of the other Contracting State and who is temporarily present in the first-mentioned State primarily for the purpose of study, research or training as a recipient of a grant, allowance or award from a scientific, educational, religious or charitable organization or under a technical assistance programme entered into by the Government of a Contracting State shall, from the date of his arrival in the first-mentioned State in connection with that visit, be exempt from tax in the State, for a period not exceeding the period of the grant.*

Article (18)
ARTISTS AND ATHLETES

1. *Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as a public entertainer, such as a theatre, motion picture, radio or television artist, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State in which these activities are performed.*
2. *Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.*
3. *Income derived from such activities performed within the frame work of cultural agreements concluded between the Contracting States are reciprocally exempted from tax only if such activities are sponsored by the Government of a Contracting State or activities financed by public funds and charges which are of non-profitable character or function and the activities are not carried out for the purpose of profits.*

Article (19)
DIRECTORS' FEES

Directors' fees and similar payments derived by a resident of a Contracting State in his 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 State.

Article (20)
PENSIONS AND ANNUITIES

1. *Subject to the provision of paragraph (2) of Article 21 pensions, annuities and other similar remuneration paid to the resident of a Contracting State in consideration of past employment shall be taxable only in that State.*
2. *The term pensions, annuities and other similar remuneration as used in this Article means periodic payments made after retirement in consideration of past employment or by way of the compensation for injuries received in connection with past employment.*

Article (21)
GOVERNMENT SERVICES

1. (a) *Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof, to an individual in respect of services rendered to that State, or subdivision, or local 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 State, and the individual is a resident of that State who:*
 - (i) *is a national of that State; or*
 - (ii) *did not become a resident of that State solely for the purpose of rendering the services.*
2. (a) *Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or local authority shall be taxable only in that State.*
(b) *However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.*
3. *The provisions of Articles 15, 19 and 20 shall apply to remuneration and pensions 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 (22)
OTHER INCOME

1. *Items of Income of a resident of a Contracting State, wherever arising, which are not expressly dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.*
2. *The provisions of paragraph 1 shall not apply to income, derived by a resident of a Contracting State, if this resident carries on business in the other Contracting State 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 income 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.*

Article (23)
METHODS OF ELIMINATION OF DOUBLE TAXATION

1. The laws in force in either of the Contracting States shall continue to govern the taxation of income, in the respective Contracting States.
2. 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 on the first-mentioned Contracting State on that income computed in accordance with its taxation laws and regulations.

ARTICLE (24)
NON-DISCRIMINATION

1. The nationals 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 that which the nationals of the other State in the same circumstances are or may be subjected.
2. The taxation or relief of 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 enterprise of that other State carrying on the same activities in the same circumstances and under the same methods.
3. (a) This Article 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 responsibility or otherwise which it grants to its own residents.
(b) Nothing in this Article shall be construed as imposing a legal obligation on a Contracting State to extend to the residents of the other Contracting State, the benefit of any treatment, preference or privilege which may be accorded to any other State or its residents by virtue of the formation of a customs union, economic union, a free trade area or by virtue of any regional or sub-regional arrangement relating wholly or mainly to taxation, to which the first-mentioned State may be a party pursuant to the practice of either Contracting State.
4. 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 other or more burdensome than that taxation to which other similar enterprises of the first-mentioned State are subjected.
5. In this Article the term "taxation" means taxes which are the subject of this Agreement.

Article (25)
MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State 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, may, without prejudice to the remedies provided by the national laws of those States, address to the competent authority of the Contracting State of which he is a resident an application in writing stating the grounds for claiming the revision of such taxation. **[REPLACED by second sentence of paragraph 1 of Article 16 of the MLI]** [To be admissible, the said application must be submitted within two years from the first notification of the action resulting in taxation not in accordance with this Agreement.]

The following second sentence of paragraph 1 of Article 16 of the MLI replaces second sentence of paragraph 1 of Article (25) of this Agreement:

ARTICLE 16 OF THE MLI - MUTUAL AGREEMENT PROCEDURE

The case must be presented within 3 years from the first notification of the action giving rise to taxation not in accordance with this Agreement.

2. **[Paragraph 2 of Article (25) of this Agreement is MODIFIED by second sentence of paragraph 2 of Article 16 of the MLI]** [The competent authority of the Contracting State shall endeavour, if the objection appears to it to be justified and if it is not by itself able to arrive at an appropriate 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 not in accordance with this Agreement. The solution so reached shall be implemented notwithstanding any time limits in the national laws of the Contracting States.]

The following second sentence of paragraph 2 of Article 16 of the MLI applies to paragraph 2 of Article (25) 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 this Agreement. They may also consult together for elimination of double taxation in cases not provided for in this Agreement.

4. The competent authorities of the Contracting States shall when necessary communicate with other directly for the purpose of applying this Agreement and reaching an agreement in the sense of the preceding paragraphs.

Article (26)
EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out the provisions of this Agreement. Any information so exchanged by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and 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 covered by this Agreement. 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.
2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States the obligations:
 - (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 information 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 industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy or public order.

Article (27)
DIPLOMATIC AND CONSULAR OFFICIALS

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

The following paragraph 1 of Article 7 of the MU applies and supersedes the provisions 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 (28)
ENTRY INTO FORCE

1. This Agreement shall be subjected to ratification in accordance with the applicable procedures of each Contracting State and instruments of ratification shall be exchanged as soon as possible.
2. The Agreement shall enter into force upon the exchange of instruments of ratification and its provisions 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 (29)
TERMINATION

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State 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 years from the year in which the Agreement enters into force.

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 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, duly authorized thereto, have signed this Agreement.

DONE in duplicate at Jakarta this Thursday 30th of November 1995 corresponding to 8 Rajab H 1416 in English, Indonesian and Arabic languages both texts being equally authentic.

In case there is any divergence of interpretation of the provisions of this Agreement, the English text shall prevail.

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

sgd.

**MARIE MUHAMMAD
MINISTER OF FINANCE**

**FOR THE GOVERNMENT OF
THE UNITED ARAB EMIRATES**

sgd.

**AHMED HUM AID AL-TAYER
MINISTER OF STATE FOR
FINANCE AND INDUSTRY**

PROTOCOL

At the moment of signing the Agreement between the United Arab Emirates and the Republic of Indonesia for the Avoidance of Double Taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed that the following provisions shall form an integral part of the Agreement.

1. Ad Article 4:
It is understood that the term "resident of a Contracting State" used in the first sentence of paragraph 1 includes that State itself, any political subdivision or local authority thereof as well as any financial institution of, and controlled by that State, political subdivision or local authority.
2. Ad Article 7:
Where an enterprise of a Contracting State derives income or profits from the extraction of petroleum or other natural resources or from related activities therewith in the other Contracting State through a permanent establishment or otherwise nothing in this Agreement shall affect the right of that other State to apply its internal taxation laws in respect of such activities.
3. Ad Articles 8, 13 and 22:

1. Remuneration derived by an employee of an enterprise operating ships or aircraft in international traffic in respect of an employment directly connected with such operation shall be taxable only in the State in which the place where the enterprise is resident.

2. However, the provisions of Article 8, of paragraph 3 of Article 13 and of paragraph 3 of Article 22 shall also apply to profits, capital gains and capital of "Gulf Air", but only to such part of those profits, capital gains or capital as corresponds to the holding in "Gulf Air" owned by the United Arab Emirates.
4. Ad Articles 10 and 11:
It is agreed that if under any convention or agreement or protocol to a convention or agreement - signed after the signature of this Agreement between Indonesia and any member of the State of the Cooperation Council of the Gulf Arab States, or a third State, Indonesia accords, as regards to the provisions of Article 10 paragraph 2 and paragraph 7 (branch tax) and Article 11 paragraph 2 a treatment more favourable than that accorded to residents of the United Arab Emirates under this Agreement, then as from the date on which the relevant Indonesian Agreement or agreement or protocol enters into force the same favourable treatment shall automatically apply to residents of the United Arab Emirates under this Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Protocol.

DONE in duplicate at Jakarta this Thursday 30th of November 1995 corresponding to 8 Rajab H 1416 in English, Indonesian and Arabic languages.

In case there is any divergence of interpretation of the provisions of this Agreement, the English text shall prevail

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

sgd.

**MARIE MUHAMMAD
MINISTER OF FINANCE**

**FOR THE GOVERNMENT OF
THE UNITED ARAB EMIRATES**

sgd.

**AHMED HUM AID AL-TAYER
MINISTER OF STATE FOR
FINANCE AND INDUSTRY**

DIREKTUR JENDERAL,

ttd.

SURYO UTOMO