LAMPIRAN
Surat Edaran Direktur Jenderal Pajak
Nomor : SE-5/PJ/2024
Tanggal : 23 Juli 2024

NASKAH SINTESIS KONVENSI DAN P3B INDONESIA–MEKSIKO

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

Naskah sintesis ini disusun berdasarkan posisi Konvensi Indonesia yang disampaikan ke Penyimpan pada 28 April 2020 dan posisi Konvensi Meksiko yang disampaikan ke Penyimpan pada 15 Maret 2023. Posisi Konvensi dapat berubah sebagaimana yang diatur dalam Konvensi. Perubahan atas posisi Konvensi dapat mempengaruhi dampak Konvensi atas P3B Indonesia-Meksiko.

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

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

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

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

Referensi
Posisi Konvensi Indonesia dan Meksiko yang disampaikan ke Penyimpan dapat dilihat di laman Penyimpan Konvensi (OECD).

Keberlakuan Efektif Konvensi

Pokok-pokok pengaturan dalam Konvensi yang berlaku untuk P3B Indonesia-Meksiko tidak berlaku efektif pada saat yang sama dengan ketentuan P3B Indonesia-Meksiko. 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 dan Pemerintah Negara Meksiko Serikat dalam posisi Konvensinya.

Tanggal penyampaian instrumen pengesahan: 28 April 2020 untuk Indonesia dan 15 Maret 2023 untuk Meksiko.

Saat berlaku Konvensi: 1 Agustus 2020 bagi Indonesia dan 1 Juli 2023 bagi Meksiko.

Berdasarkan Pasal 35 Konvensi, ketentuan-ketentuan dalam Konvensi yang diadopsi oleh Pemerintah Republik Indonesia dan Pemerintah Negara Meksiko Serikat berlaku efektif untuk P3B Indonesia-Meksiko:

a. sehubungan dengan pajak-pajak yang dipotong atau dipungut di negara sumber atas pembayaran kepada atau dikreditkan oleh subjek pajak luar negeri, apabila kejadian yang menimbulkan pajak terjadi pada atau setelah 1 Januari 2024; dan
b. sehubungan dengan pajak-pajak lainnya yang dikenakan pada tahun pajak yang dimulai pada atau setelah 1 Januari 2025.

The Government of the Republic of Indonesia and the Government of the United Mexican States,

[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 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.

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 paragraph 2 of Article 9 (as modified by paragraph 1 of Article 17 of the MLI), Article 19, Article 20, Article 21, Article 23, Article 24, Article 25, and Article 27 of the Agreement

Article 2
TAXES COVERED

1. *This Agreement shall apply to taxes on income imposed on behalf, of a Contracting State or of its 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 the alienation of movable or immovable property.*
3. *The existing taxes to which the Agreement shall apply are in particular:*
   a) *in Mexico:*
      the federal income tax (el impuesto sobre la renta);
      (hereinafter referred to as "Mexican tax")

   b) *in Indonesia:*
      the income tax
      (hereinafter referred to as "Indonesian tax")
4. *The Agreement shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant 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 term "Mexico" means the United Mexican States; when used in a geographical sense it includes the territory of the United Mexican States, as well as the integrated parts of the Federation; the islands, including the reefs and cays in the adjacent waters; the islands of Guadalupe and Revillagigedo; the continental shelf and the seabed and sub-soil of the islands, cays and reefs; the waters of the territorial seas and the inland waters and beyond them the areas over which, in accordance with the international law, Mexico may exercise its sovereign rights of exploration and exploitation of the natural resources of the seabed, sub-soil and the suprajacent waters; and the air space of the national territory to the extent and conditions established by international law;*
   b) *the term "Indonesia" means the territory of the Republic of Indonesia as defined in its laws;*
   c) *the terms "a Contracting State" and "the other Contracting State" mean Mexico or Indonesia, as the context requires;*
   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 an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;*
   h) *the term "nationals" means:*
      (i) any individuals possessing the nationality of a Contracting State;
      (ii) any legal person, partnership and association deriving its status as such from the laws in force in a Contracting State;
   i) *the term "competent authority" means:*
      (i) in Mexico, the Ministry of Finance and Public Credit;
      (ii) in Indonesia, the Ministry of Finance or his authorised representative.
2. *As regards the application of the Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies; any meaning under the applicable tax laws of that State shall prevail over a meaning given to the term under the laws of that State.*

Article 4
RESIDENT

1. *For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, 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. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State.*
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 has not 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, he shall be deemed to be a resident of the State of which he is a national;*
d) *in any other case, 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, such person shall not be treated as a resident of either Contracting States for the purposes of this Agreement.*
4. *A person who in relation to an income, is an estate of a deceased individual, or a trust (other than a trust the income of which is exempt from taxation under the law of a Contracting State relating to its tax) shall not be treated as a resident of a Contracting State except to the extent that the income is subject to tax in that State as the income of a resident of that State in the hands of a beneficiary, or, if that income is exempt from tax in that State, it is so exempt solely because it is subject to tax in the other State.*

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 sales outlet;*
   g) *a farm or plantation; and*
   h) *a mine, an oil or gas well, a quarry or any other place of extraction or exploration or exploitation of natural resources, drilling rig or working ship.*
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 when 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 for such purpose, but only where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than 91 calendar days within any twelve-month period.*
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 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 of collecting information, for the enterprise;*

e) the maintenance of a fixed place of business solely for the purpose of advertising, supplying information, scientific research or for preparation in relation to the placement of loans, or for similar activities which have a preparatory or auxiliary character, for the enterprise;

f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall 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 this Agreement, the term "permanent establishment" shall be deemed not to include:

a) the activities specifically listed in paragraph 4 of Article 5 of this 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 this 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 State in respect of any activities which that person undertakes for the enterprise, if such person:*
   a) ***[MODIFIED by paragraph 1 of Article 12 of the MLI] [****has or habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph****]****; or*

The following paragraph 1 of Article 12 of the MLI applies to 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 the provisions of Article 5 of this Agreement, but subject to paragraph 2, 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 this Agreement.

   b) *has not 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*
   c) *manufactures or processes in that State for the enterprise goods or merchandise belonging to the enterprise.*
6. *Notwithstanding the foregoing provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to reinsurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.*
7. ***[MODIFIED 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 State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business and that in their commercial or financial relations with the enterprise, conditions are not made or imposed that differ from those generally agreed to by independent agents. 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.****]***

The following paragraph 2 of Article 12 of the MLI applies to 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

Paragrah 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

Paragrah 1 For the purposes of Article 5 of this 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 per cent 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. 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, 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; ships, boats 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 be taxable only in that State unless the enterprise carries or has carried on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries or has carried 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:*
    1. *that permanent establishment; and*
    2. *sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment.*
2. *Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries or has carried 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. However, no such deduction shall be allowed in respect of such amounts, if any, paid (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, 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 moneys 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 moneys lent to the head office of the enterprise or any of its other offices.*
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 paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method 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 that permanent establishment of goods or merchandise for the enterprise.*
6. *For the purposes 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.*
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. *Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.*
2. *Profits referred to in paragraph 1 shall not include profits from the provision of accommodation or transportation other than from the operation of ships or aircraft in international traffic.*
3. *The provisions of paragraph 1 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 participate 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. ***[MODIFIED 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 the two enterprises, then that other State may, in accordance with paragraph 3 of Article 25, make the appropriate adjustment to the amount of the tax charged therein on those profits if it agrees with the adjustment made by the first-mentioned Contracting State. 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 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.

3. *The provisions of paragraph 2 shall not apply in the case of fraud, gross negligence, or willful default.*
4. *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 State.*
2. *However, if the beneficial owner of the dividends is a resident of the other Contracting State, the tax charged by the first-mentioned State may not exceed ten per cent of the gross amount of the dividends actually distributed.*
3. *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.*
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. *A Contracting State may not impose any tax on the dividends paid by a company which is not a resident of that State, except insofar as the dividends are paid to a resident of that State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that 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 State.*
6. *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 ten per cent of the amount of such profits after deducting therefrom income tax and other taxes on income imposed thereon in that other State.*
7. *The provision of paragraph 6 of this Article shall not affect the provision contained in any production sharing contract and contracts of work (or any other similar contracts) relating to oil and gas sector or other mining sector concluded by a Contracting State, its instrumentality, its relevant state oil and gas company or any other entity thereof with a person who is a resident of the other Contracting 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 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 ten per cent of the gross amount of the interest.*

3. *Notwithstanding the provisions of paragraph 2, interest referred to in paragraph 1 shall be taxable only in the Contracting State in which the beneficial owner is a resident if:*
   a) *the beneficial owner is a Contracting State, a political subdivision, or local authority, or its Central Bank;*
   b) *the interest is paid by any of the entities mentioned in sub-paragraph (a);*
   c) *the interest arises in Indonesia and is paid in respect of a loan for a period of not less than three years granted, guaranteed or insured, or a credit for such period granted, guaranteed or insured, by Banco Nacional de Comercio Exterior, S.N.C., Nacional Financiera, S.N.C.; or*
   d) *the interest arises in Mexico and is paid in respect of a loan for a period of not less than three years granted, guaranteed or insured, or a credit for such period granted, guaranteed or insured by financial institutions wholly controlled by the Government of Indonesia to be agreed upon by competent authorities of both States.*
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 under the taxation law of the State in which the income arises, including interest on deferred payments sales. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.*
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 (a) such permanent establishment or fixed base, or with (b) business activities referred to under (c) of paragraph 1 of Article 7. In such case, the provisions of Article 7 or 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, 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 there is a special relationship between the payer and the beneficial owner or between both of them and some other person and the amount of the interest exceeds, for whatever reason, 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.*
8. ***[REPLACED by paragraph 1 of Article 7 of the MLI]*** *[The provisions of this Article shall not apply if the competent authorities agree that the debt-claim in respect of which the interest is paid was created or assigned with the main purpose of taking advantage of this Article. In that case the provisions of the domestic law of the Contracting State in which the interest arises shall apply.]*

The following paragraph 1 of Article 7 of the MLI replaces paragraph 8 of Article 11 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 or capital 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 12
ROYALTIES

1. *Royalties arising in a Contracting States and paid to a resident of the other Contracting State may be taxed in that other State.*
2. *However, such royalties may also be taxed in the State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed ten per cent of the gross amount of the royalties.*
3. *The term "royalties" in this Article means payments or credits, whether periodical or not, and however described and computed, 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, trademark 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 application or enjoyment of, any such property or right as is mentioned in sub-paragraph (a), any such equipment as is mentioned in sub-paragraph (b) or any such knowledge or information as is mentioned in sub-paragraph (c); or*
   e) *the use of, or the right to use:*
      (i) motion picture films; or
      (ii) films or video for use in connection with television; or
      (iii) tapes for use in connection with radio broadcasting; or
   f) *for the reception of, or the right to receive, visual images or sounds, or both, transmitted to the public by satellite or by cable, optic fibre or similar technology, or the use in connection with television broadcasting or radio broadcasting;*
   g) *total or partial forbearance in respect of the use or supply or 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 (a) such permanent establishment or fixed base, or with (b) business activities referred to under (c) of paragraph 1 of Article 7. 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 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 payment shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.*
7. ***[REPLACED by paragraph 1 of Article 7 of the MLI]** [The provisions of this Article shall not apply if the competent authorities agree that the rights in respect of which the royalties are paid were created or assigned with the main purpose of taking advantage of this Article. In that case the provisions of the domestic law of the Contracting State in which the royalties arise shall apply.]*

The following paragraph 1 of Article 7 of the MLI replaces paragraph 7 of Article 12 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 or capital 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 13
CAPITAL GAINS

1. *Gains 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. ***[REPLACED by paragraph 4 of Article 9 of the MLI] [**Gains from the alienation of shares or other rights of a company which assets consist principally, directly or indirectly, of immovable property situated in a Contracting State or any other right pertaining to such immovable property, may be taxed in that State.**]***

The following paragraph 4 of Article 9 of the MLI replaces 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 this 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.

3. *In addition to gains taxable in accordance with the provisions of the preceding paragraphs of this Article, gains derived by a resident of a Contracting State from the alienation of stock, participation, or other rights in the capital of a company which is a resident of the other Contracting State, may be taxed in that other Contracting State.*

4. *Gains 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.*
5. *Gains from the alienation of ships or aircraft operated in international traffic, or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the enterprise is a resident.*
6. *Gains from the alienation of any property other than that referred to in Article 12 or in the preceding paragraphs of this Article 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 activities of an independent character shall be taxable only in that State. However, such income may also be taxed in the other Contracting State if:*
   a) *the resident, being an individual, is present in the other State for a period or periods exceeding in the aggregate 91 days in any twelve-month period commencing or ending in the fiscal year concerned; or*
   b) *the resident has a fixed base regularly available in that other State for the purpose of performing its activities, but only so much of the income as is attributable to services performed in that other 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
DEPENDENT PERSONAL SERVICES

1. *Subject to the provisions of Articles 16, 18, 19 and 20, 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 the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending 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 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 by an enterprise of a Contracting State may be taxed in that State.*

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 as a statutory supervisor, and in the case of Mexico, in his capacity as an "administrador" or a "comisario", and in the*

case of Indonesia, in his capacity as "anggota dewan komisaris", 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, derived 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
ARTISTES AND ATHLETES

1. *Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artist, or a musician, or as a sportperson, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State. Income referred to in this paragraph shall include income derived from any personal activities performed in the other Contracting State by such resident relating to their reputation as an entertainer or sportperson.*
2. *Where income in respect of personal activities exercised by an entertainer or a sportperson in their capacity as such accrues not to the entertainer or sportperson themselves 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 sportperson are exercised.*
3. *There shall be deemed as income to which this paragraph applies, the income derived by a resident of the other Contracting State from the performance of independent personal services, the direct use, letting, or use in any other form of goods or their alienation thereof, related to the activities exercised by an entertainer or a sportperson referred to in paragraph 1.*
4. *Notwithstanding the provisions of paragraphs 1 and 2, income derived from activities referred to in paragraph 1 performed under a cultural agreement or arrangement between the Contracting States shall be exempt from tax in the Contracting State in which the activities are exercised if the visit to that State is wholly or substantially supported by funds of one or both of the Contracting States, a local authority or public institution thereof.*

Article 18
PENSIONS

1. *Subject to the provisions of paragraph 2 of Article 19, any pensions or other similar remuneration paid to a resident of one of the Contracting States from a source in other Contracting State in consideration of past employment or services in that other Contracting State and any annuity paid to such a resident from such a source may be taxable in that other State.*
2. *The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.*

Article 19
GOVERNMENT SERVICE

1. a) *Salaries, wages and other similar 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 authority shall be taxable only in that State.*
   b) *However, such salaries wages and other 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 crested 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 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 is a resident of, and a national of, that State.*
3. *The provision of Article 15, 16 and 18 shall apply to salaries, wages and other similar 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 20
TEACHERS AND RESEARCHERS

An individual who is immediately before visiting a Contracting State a resident of the other Contracting State and who, at the invitation of the Government of the first-mentioned Contracting State or of a university, college, school, museum or other cultural institution in that first-mentioned Contracting State or under an official programme of cultural exchange, is present in that Contracting State for a period not exceeding two consecutive years solely for the purpose of teaching, giving lectures or carrying out research at such institution shall be exempt from tax in that Contracting State on his remuneration for such activity, provided that payment of such remuneration is derived by him from outside that Contracting State.

Article 21
STUDENTS AND TRAINEES

1. *Payments which a student 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 Contracting 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 Contracting State, provided that such payments arise from sources outside that Contracting State.*
2. *In respect of grants, scholarships and remuneration from employment not covered by paragraph 1, a student or business trainee described in paragraph 1 shall, in addition, be entitled during such education or training to the same exemption, [reliefs] or reductions in respect of taxes available to residents of the Contracting State which he is visiting.*

Article 22
OTHER INCOME

Items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement and arising in the other Contracting State may be taxed in that other State.

Article 23
METHODS FOR ELIMINATION OF DOUBLE TAXATION

1. *In accordance with the provisions and subject to the limitations of the laws of Mexico, as may be amended from time to time without changing the general principle hereof, Mexico shall allow its residents as a credit against the Mexican tax:*
   a) *the Indonesian tax paid on income arising in Indonesia, in an amount not exceeding the tax payable in Mexico on such income; and*
   b) *in the case of a company owning at least ten per cent of the capital of a company which is a resident of Indonesia and from which the first-mentioned company receives dividends, the Indonesian tax paid by the distributing company with respect to the profits out of which the dividends are paid.*
2. *In the case of Indonesia Double Taxation shall be avoided as follows:*

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

Article 24
NON-DISCRIMINATION

1. *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 the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.*
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 enterprises of that other State carrying on the same activities.*
3. *The provisions of 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 responsibilities which it grants to its own residents.*
4. *Except where the provisions of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.*
5. *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.*
6. *The term "taxation" as used in this Article means taxes of every kind and description, except for the Indonesian municipal tax on foreign nationals (pajak bangsa asing).*

Article 25
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 24, to that of the Contracting State of which he is a national.*
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 it 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 the Agreement, provided that the competent authority of the other Contracting State is notified of the case within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Agreement. In such case, any agreement reached shall be implemented subject to the time limits provided in its tax laws.]*

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 the Agreement. For the purposes, the Contracting States shall take into account the Model Tax Agreement on Income and on Capital, the General Guidelines, and the Decisions and Recommendations of the Organisation for Economic Cooperation and Development (OECD) regarding tax issues. They may also consult together regarding 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. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.*
5. *If any difficulty or doubt arising as to the interpretation or application of this Agreement cannot be resolved by the competent authorities pursuant to the previous paragraphs of this Article, the case may, if both competent authorities and the taxpayer agree, be submitted for arbitration, provided that the taxpayer agrees in writing to be bound by the decision of the arbitration board. The decision of the arbitration board in a particular case shall be binding on both States with respect to that case. The procedures shall be established between the States by notes to be exchanged through diplomatic channels.*
6. *Notwithstanding any treaty on international trade or investment [to] which the Contracting States are or may become parties, any dispute over a measure taken by a Contracting State involving a tax covered by Article 2 or, in the case of non-discrimination, any taxation measure taken by a Contracting State including a dispute whether this Agreement applies, shall be settled only under the Agreement unless the competent authorities of the Contracting State agree otherwise.*

Article 26
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 imposed by the Contracting States insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information shall apply to taxes of every kind and description and 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 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 imposed on behalf of that State. 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 a Contracting State the obligation to:*
   a) *carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;*
   b) *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) *supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).*

Article 27
DIPLOMATIC AGENTS AND CONSULAR OFFICERS

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

The following paragraph 1 of Article 7 of the MLI 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 or capital 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. *The Contracting States shall notify each other in writing, through diplomatic channels, that the procedures required by its law for the entry into force of this Agreement have been satisfied. The Agreement shall enter into force on the date of receipt of the last notification.*
2. *This Agreement shall have effect:*
   (i) 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
   (ii) in respect of other taxes on income, for taxable years beginning on or after 1st of January in the year next following that in which the Agreement enters into force.

Article 29
TERMINATION

1. *This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year beginning after the expiration of a period of five years from the date of its entry 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 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, duly authorized thereto, have signed this Agreement.

Done in triplicate at Los Cabos City, Mexico, this 6th day of September 2002, in the Spanish, Indonesian and English languages, all of the texts being equally authentic. In case there is any divergence of interpretation between the Spanish and the Indonesian texts, the English text shall prevail.

For the Government of the	*For the Government of the*
Republic of Indonesia	*United Mexican States*

PROTOCOL

At the moment of signing the Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on income, this day concluded between the Government of the United Mexican States and the Government of the Republic of Indonesia, the undersigned have agreed that the following provisions shall form an integral part of the Agreement.

1. With reference to paragraph 2 of Article 8

The income from shipping and air transport in international traffic shall include a lease of containers provided that it is incidental to such income.

2. With reference to paragraph 6 of Article 10

It is understood that the branch tax referred to in paragraph 6 of article 10 would be fully applicable even if such paragraph had not been included in this Agreement.

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

DONE in triplicate at Los Cabos City, Mexico, this 6th day of September 2002, in the Spanish, Indonesian and English languages, all of the texts being equally authentic. In case there is any divergence of interpretation between the Spanish and the Indonesian texts, the English text shall prevail.

For the Government of the Republic of Indonesia

For the Government of the United Mexican States

Protocol Amending the Agreement between the Government of the Republic of Indonesia and the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income signed at the City of Los Cabos on 6 September 2002

The Government of the Republic of Indonesia and the Government of the United Mexican States desiring to amend the Agreement between the Government of the Republic of Indonesia and the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at the city of Los Cabos on 6 September 2002 (hereinafter referred to as "the Agreement"),

HAVE AGREED as follows:

Article I

Subparagraph a) of paragraph 3 of Article 2 of the Agreement shall be amended and replaced by the following:

"(a) in Mexico:

(i) the federal income tax (el impuesto sobre la renta federal);

(ii) the business flat rate tax (e/ impuesto empresaria/ a tasa (mica);

(hereinafter referred to as "Mexican tax");

Article II

Article 26 of the Agreement shall be amended and replaced by the following:

"Article 26
EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 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) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. 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. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.

3. In no case shall the provisions of paragraphs 1 and 2 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 public policy (ordre public).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person."

Article III

1. Each of the Contracting States shall notify the other through diplomatic channels of the completion of the procedures required by its law for the entry into force of this Protocol. This Protocol shall enter into force on the thirtieth (30th day following the date of receipt of the latter of the two notifications.

2. This Protocol shall cease to be effective at such time as the Agreement ceases to be effective in accordance with Article 29 of the Agreement.

3. This Protocol shall form an integral part of the Agreement.

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

DONE at Nusa Dua, Bali, on 6 October 2013, in duplicate, each in the Indonesian, Spanish and English languages, all texts being equally authentic. In case of any divergence of interpretation and the application of this Protocol, the English text shall prevail.

For the Government of the Republic of Indonesia	*For the Government of the United Mexican States*

Direktur Jenderal Pajak

ditandatangani secara elektronik
Suryo Utomo