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**AGREEMENT BETWEEN  
THE GOVERNMENT OF THE REPUBLIC OF INDONESIA  
AND  
THE REPUBLIC OF FINLAND**

**FOR  
THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT  
TO TAXES ON INCOME**

**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 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 :

(a) in Indonesia:  
the income tax  
imposed under  
the Undang-  
undang Pajak  
Penghasilan  
1984 (Law No.  
7 of 1983 ) and  
to the extent  
provided in  
such income tax  
law, the  
company tax  
imposed under  
the Ordonansi  
Pajak Perseroan  
(State Gazette  
No. 319 of 1925  
as lastly  
amended by  
Law No. 8 of  
1970) and the  
tax imposed  
under the  
Undang-undang  
Pajak atas  
Bunga, Dividen  
dan Royalti  
1970 (Law  
No.10 of 1970);  
(hereinafter  
referred to as  
"Indonesian  
tax");

(b) in Finland :  
(i) the state  
income  
tax;  
(ii) the  
communal  
tax;  
(iii) the church  
tax; and  
(iv) the tax  
withheld  
at source  
from non-  
residents  
income;  
(hereinafter  
referred to as  
"Finnish tax");

4. The Agreement shall apply also to any identical or substantially similar taxes on income which are imposed after the date of signature of the Agreement in addition to, or in place of, those referred to in paragraph 3. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their

respective taxation laws.

## Article 3 GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires :

(a)  
the 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  
sovereign rights or  
jurisdiction in  
accordance with the  
provisions of the  
United Nations  
Convention on the  
Law of the Sea,  
1982;

(b)  
the term "Finland"  
means the Republic  
of Finland and,  
when used in a  
geographical sense,  
means the territory  
of the Republic of  
Finland, and any  
area adjacent to the  
territorial sea of the  
Republic of Finland  
within which, under  
the laws of Finland  
and in accordance  
with international  
law, the rights of  
Finland with respect  
to the exploration  
for and exploitation  
of the natural  
resources of the sea  
bed and its sub-soil  
may be exercised;

(c)  
the term "person"  
includes an individual,  
a company and any  
other body of  
persons;

(d)  
the term "company"  
means any body  
corporate or any  
entity which is  
treated as a body  
corporate for tax  
purposes;

(e)  
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;

(f)  
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;

(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 "competent authority" means:

(i) in Indonesia, the Minister of Finance or his authorised representative;

(ii) in Finland, the Ministry of Finance or his authorised representative.

2. As regards the application of the Agreement by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Agreement applies.

## **Article 4 RESIDENCE**

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. However, the 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, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the States shall settle the question by mutual agreement.

## **Article 5 PERMANENT ESTABLISHMENT**

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop; and
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

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  
through  
employees  
or other  
personnel  
engaged by  
the  
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  
three months  
within any  
twelve-  
month  
period.

4. 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,  
for the  
supply of  
information,  
for  
scientific  
research or  
for similar  
activities  
which have  
a  
preparatory  
or auxiliary  
character;

(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.

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 a person:

(a) has and habitually exercises in the first-mentioned 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

(b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

6. An insurance enterprise of a Contracting State shall, except with regard to reinsurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in that other State or insures risks situated therein

through an employee or through a representative who is not an agent of an independent status within the meaning of paragraph 7.

7. 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. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he shall not be considered an agent of an independent status within the meaning of this paragraph.
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.

## 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.(a)  
The term "immovable property" shall, subject to the provisions of sub-paragraphs (b) and (c), have the meaning which it has under the law of the Contracting State in which the property in question is situated.

(b)  
The  
term  
"immovable  
property"  
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

(c)  
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.  
Where the  
ownership of  
shares or other  
corporate rights in  
a company entitles  
the owner of such  
shares or corporate  
rights to the  
enjoyment of  
immovable  
property held by  
the company, the  
income from the  
direct use, letting  
or use in any other  
form of such right  
to enjoyment may  
be taxed in the  
Contracting State  
in which the  
immovable  
property is  
situated.

5. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

## **Article 7 BUSINESS PROFITS**

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to (a) that permanent establishment; (b) sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or (c) other business activities carried on in that other State of the same or similar kind as those effected through that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
4. In the absence of appropriate accounting or other data permitting the determination of the profits to be attributed to a permanent establishment, the tax may be assessed in the Contracting State in which the permanent establishment is situated in accordance with the income tax laws of that state, in particular regard being had to the normal profits of enterprises engaged in the same or similar activities under the same or similar conditions, provided that, on the basis of the available information, the determination of the profits of the permanent establishment is consistent 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. 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 derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.
2. 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. 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 by the first-mentioned State claimed to be 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 tax charged therein on those profits, where that other State considers the adjustment justified. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

## **Article 10 DIVIDENDS**

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but the tax so charged shall not exceed:

(a) 10 percent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 percent of the capital of the company paying the dividends;

(b) 15 per cent of the gross amount of the dividends in all other cases.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares, or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. 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 such dividends are paid to a

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resident of that other 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 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.

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 15% of the amount of such profits after deducting therefrom income tax and other taxes on income imposed thereon in such other State.
7. The provisions of paragraph 6 shall not affect the provisions contained in any production sharing contract or contract of work (or any other similar contract) relating to the oil and gas sector or any other mining sector concluded on or before 31 December 1983 by the Government of Indonesia, an instrumentality, the relevant state oil and gas company or any other entity thereof with a resident of Finland.

## 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 10% of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and derived by:
  - (a) in the case of  
Indonesia :
    - (i) the "Bank  
Indonesia"  
(the Central  
Bank of  
Indonesia);
    - (ii) such other  
financial  
institution, the  
capital of  
which is  
wholly owned  
by the  
Government  
of Indonesia,  
as may be  
agreed upon  
from time to  
time within  
the  
Government  
of the  
Contracting  
States;
  - (b) in the case of  
Finland :

(i) the  
"Suomen  
Pankki"  
(the  
Centrat  
Bank  
of  
Finland);  
(ii) the  
Finnish  
Fund  
for  
Industrial  
Development  
Co-  
operation  
Ltd.  
(FINNFUND);  
and  
(iii) the  
Finnish  
Export  
Credit  
Ltd.  
shall be  
exempt  
from  
tax in  
that  
State.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as penalty charges for late payment, and income assimilated to income from money lent by the taxation laws of the State in which the income arises, including interest on deferred payment sales.
5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with (a) such permanent establishment or fixed base, or with (b) business activities referred to in sub-paragraph (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.
6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

## Article 12 ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, 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, the tax so charged shall not exceed 10% of the gross amount of the royalties, in the case of royalties of the kind referred to in sub-paragraph (a) of paragraph 3, and 15% of the gross amount of the royalties, in the case of royalties of the kind referred to in sub-paragraphs (b) and (c) of paragraph 3.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration:
  - (a) for the use of,  
or the right to  
use, any  
copyright of  
literary,  
artistic or  
scientific  
work  
including  
cinematograph  
films, and  
films or tapes  
for television  
or radio  
broadcasting;
  - (b) for the use of,  
or the right to  
use, any  
patent, trade  
mark design  
or model,  
plan, secret  
formula or  
process, or  
any industrial,  
commercial,  
or scientific  
equipment;
  - (c) for  
information  
concerning  
industrial, commercial or  
scientific  
experience;

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 in sub-paragraph (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 local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

## **Article 13 CAPITAL GAINS**

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in paragraph 2 of Article 6 and situated in the other Contracting State may be taxed in that other State.
2. Gains derived by a resident of a Contracting State from the alienation of shares or other corporate rights referred to in paragraph 4 of Article 6 may be taxed in the Contracting State in which the immovable property held by the company is situated.
3. 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.
4. Gains from the alienation of ships or aircraft operated in international traffic by an enterprise of a Contracting State or movable property pertaining to the operation of such ships or aircraft shall be taxable only in that State.
5. Gains from the alienation of any property other than that referred to 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 unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities or he is present in that other State for a period or periods exceeding in the aggregate 90 days in any twelve-month period. If he has such a fixed base or remains in that other State for the aforesaid period or periods, the income may be taxed in that other State but only so much of it as is attributable to

that fixed base or is derived from his activities performed in that other State during the aforesaid period or periods.

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 within any twelve-month period, 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 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 shall be taxable only in that State.

## **Article 16** **DIRECTORS FEES**

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or any similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

## **Article 17** **ARTISTES AND SPORTSMEN**

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 artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income derived directly or indirectly by reason of entertainment or a sport contest accrues not to the entertainer or sportsman 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 sportsman are exercised.
3. Notwithstanding the provisions of paragraphs 1 and 2, income derived in respect of activities referred to in paragraph 1 and exercised within the framework of a cultural or sports exchange programme approved by both Contracting States shall be taxable only in the Contracting State of which the entertainer or sportsman is a resident.

## **Article 18** **PENSIONS**

Subject to the provisions of Article 19, pensions and other similar remuneration arising in a Contracting State and paid to a resident of the other Contracting State in consideration of past employment may be taxed in the first-mentioned State.

## **Article 19** **GOVERNMENT SERVICE**

- 1.(a) Remuneration,  
other than a  
pension, paid by  
a Contracting  
State or a  
statutory body  
or a local  
authority thereof  
to an individual in  
respect of  
services  
rendered to that  
State or body or  
authority shall  
be taxable only  
in that State.

(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the individual is a resident of that State who:

(i) is a 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 statutory body or a local authority thereof to an individual in respect of services rendered to that State or body 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 of, and a national of, that other State.

3.  
The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a statutory body or a local authority thereof.

## Article 20 STUDENTS

1. Payments which a student or business, technical, agricultural or forestry apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.
2. A student at a university or other institution for higher education in a Contracting State, or a business, technical, agricultural or forestry apprentice who is or was immediately before visiting the other Contracting State a resident of the

first-mentioned State and who is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned, shall not be taxed in that other State in respect of remuneration for services rendered in that State, provided that the services are in connection with his studies or training and the remuneration constitutes earnings necessary for his maintenance.

## **Article 21 OTHER INCOME**

1. Items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State. However, any items of income of a resident of a Contracting State arising in the other Contracting State may also be taxed in that other State.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, 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 22 ELIMINATION OF DOUBLE TAXATION**

1. The laws of each of the Contracting States shall continue to govern in that State the taxation of income, wherever arising, except where express provision to the contrary is made in this Agreement. Where income derived from a Contracting State is subject to tax in both Contracting States, relief from double taxation on such income shall be given in accordance with the following provisions of this Article.
2. In Finland double taxation shall be eliminated as follows;

(a) Where a resident of Finland derives income which, in accordance with the provisions of this Agreement, may be taxed in Indonesia, Finland shall, subject to the provisions of sub-paragraph (b), allow as a deduction from the tax on income of that person an amount equal to the tax on income paid in Indonesia. Such deduction shall not, however, exceed that part of the tax on income, as computed before the deduction is given, which is attributable to the income which may be taxed in Indonesia.

(b) Dividends paid by a company which is a resident of Indonesia to a company which is a resident of Finland shall be exempt from Finnish tax to the extent that the dividends would have been exempt from tax under Finnish taxation law if both companies had been residents of Finland.

(c) Where in accordance with any provision of the Agreement income derived by a resident of Finland is exempt from tax in Finland, Finland may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

3. In Indonesia, double taxation shall be eliminated as follows;

- (a) Indonesia,  
when  
imposing  
tax on  
residents of  
Indonesia,  
may include  
in the basis  
upon which  
such tax is  
imposed the  
items of  
income  
which may  
be taxed in  
Finland in  
accordance  
with the  
provisions  
of this  
Agreement.

(b) Where a resident of Indonesia derives income from Finland and that income may be taxed in Finland in accordance with the provisions of the Agreement, the amount of Finnish tax payable in respect of the income shall be allowed as a credit against the Indonesian tax imposed on that resident. The amount of credit, however, shall not exceed that part of the Indonesian tax which is appropriate to the income.

## Article 23 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 are or may be subjected.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision 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.

3. Except where the provisions of paragraph 1 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.
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 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.
5. Nothing contained in this Article shall be construed as to prevent either Contracting State from limiting in special sectors of economy to its nationals the enjoyment of tax incentives and any tax of a preferential nature designed in pursuance of its programme of economic development.
6. In this Article the term "taxation" means the taxes Which are the subted of this Agreement.

## **Article 24 MUTUAL AGREEMENT PROCEDURE**

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Agreement. In the event the competent authorities reach an agreement, taxes shall be imposed, and refund or credit of taxes shall be allowed by the Contracting States in accordance with such agreement. It shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.
4. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of the Agreement and, especially, the requirements to which residents of a Contracting State shall be subjected in order to obtain, in the other Contracting State, tax reliefs or exemptions in respect of income referred to in Articles 10, 11 and 12, received from that other State.
5. 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.

## **Article 25 EXCHANGE OF INFORMATION**

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement insofar as the taxation thereunder is not contrary to the agreement. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State 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 the 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 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).

## Article 26

### DIPLOMATIC AND CONSULAR OFFICERS

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

## Article 27

### ENTRY INTO FORCE

1. The Governments of the Contracting States shall notify each other that the constitutional requirements for the entry into force of this Agreement have been complied with.
2. The Agreement shall enter into force thirty days after the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect;

- (i)  
in respect  
of taxes  
withheld  
at the  
source, on  
income  
derived on  
or after 1  
January in  
the  
calendar  
year next  
following  
the year in  
which the  
Agreement  
enters into  
force;

- (ii) in respect of other taxes on income, for taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which Agreement enters into force.

## Article 28 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 notice of termination at least six months before the end of any calendar year following after the period of five years from the date on which the Agreement enters into force. In such event, the Convention shall cease to have effect:

- (a) in respect of taxes withheld at the source, on income derived on or after 1 January in the calendar year next following the year in which the notice is given;

(b)  
in respect  
of other  
taxes on  
income,  
for taxes  
chargeable  
for any  
tax year  
beginning  
on or after  
1 January  
in the  
calendar  
year next  
following  
the year in  
which the  
notice is  
given.

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

DONE in duplicate at Jakarta this fifteenth day of October 1987, in the English language.

FOR THE REPUBLIC  
OF INDONESIA

FOR THE REPUBLIC  
OF FINLAND

## PROTOCOL

At the signing of the Agreement for the avoidance of double taxation and for the prevention of fiscal evasion with respect to taxes on income, this day concluded between Indonesia and Finland, the undersigned have agreed that the following provision shall form an integral part of the Agreement.

### With reference to Article 23

In respect of paragraph 3 of Article 23 the Contracting States have, however, the right to apply their internal provisions concerning regulation of the debt-equity ration (thin capitalisation) in the case of subsidiaries of enterprises of the other Contracting State.

In witness whereof the undersigned, duly authorised thereto, have signed this Protocol.

# Tax Treaty Finland - Finlandia

Done in duplicate at Jakarta this fifteenth day of October 1987 in the English language.

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