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**AGREEMENT BETWEEN**
**THE GOVERNMENT OF THE REPUBLIC OF INDONESIA**
**AND**
**THE GOVERNMENT OF THE HUNGARIAN PEOPLE'S REPUBLIC**

**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 political subpisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which the Agreement shall apply are, in particular:

(a) in Indonesia : the income tax imposed under the Undang-undang Pajak Penghasilan 1984 (Law No. 7 of 1984 and to the extent provided in such income tax law, the company tax imposed under the Ordinansi Pajak Perseroan 1925 (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");

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(b) in the Hungarian People's Republic-- the income tax -- the profits taxes -- the special corporation tax (hereinafter referred to as "Hungarian tax").

4. The Agreement shall also apply 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, 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)(i) 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;

(ii) the term "Hungarian People's Republic" when used in a geographical sense means the territory of the Hungarian People's Republic;

(b) the terms "a Contracting State" and "the other Contracting State" mean the Hungarian People's Republic or the Republic of Indonesia as the context requires;

(c) the term "person includes an inpidual, 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;

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(e) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean, respectively, an enterprise carried resident of a Contracting State and an enterprise carried on by a resident of the other contracting State;

(f) the term "international traffic' means any transport by a ship or aircraft operated by a resident of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(g) the term "competent authority" means:

(i) in Indonesia : the Minister of Finance or his authorized representative;

(ii) in the Hungarian People's Republic; the Minister of Finance or his authorized representative;

(h) the term "national" means :

(i) any inpidual 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.

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**
**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 inpidual is a resident of both Contracting States, then his status shall be determined as follows:

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(a) he shall he 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 a habitual abode;

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(c) if he has a 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 inpidual 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;
(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:

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(a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activity continues for a period of more than 3 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 4 months within any 12-month period.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

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(a) the use of the facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;
(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;
(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, of, 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 for the enterprise;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (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 Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:

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(a) has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities 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 Contracting 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.

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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 will 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 e 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 also apply to income derived from the direct use, letting, or use, in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 staff 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. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of

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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 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. 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.

5. For the purpose of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

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 from sources within a Contracting State derived by a resident of the other Contracting State from the operation of ships in international traffic may be taxed in the first-mentioned State, but the tax imposed shall be reduced by an amount equal to 50% thereof.

2. Profits from the operation of aircraft in international traffic shall be taxable only in the Contracting State of which the enterprise operating the aircraft is a resident.

3. The provision of paragraph 1 shall also apply to profits from participation in a pool, a joint business or an international operating agency.

**Article 9**
**ASSOCIATED ENTERPRISE**

Where:

(a) an enterprise of a Contracting State participates directly or indirectly in the management control or capital of 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.

**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 pidends may also be taxed in the Contracting State of which the company paying the pidends is a resident, and according to the laws of that State, but if the recipient is the beneficial owner of the pidends the tax so charged shall not exceed 15% of the gross amount of the pidends.
   The competent authorities of the Contracting State shall by mutual agreement settle the mode of application of these limitations. The provisions of this paragraph shall not affect the taxation of the company in respect of the profits out of which pidends are paid.

3. The term "pidends" 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 taxation 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 pidends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the pidends 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 pidends are paid is effectively connected with such permanent establishment or fixed base. In such a 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 pidends paid by the company, except insofar as such pidends are paid to a resident of that other State or insofar as the holding in respect of which the pidends 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 pidend paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

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## Article 11
## INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 15% of the gross amount of the interest.
   The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and derived by the Government of the other Contracting State including local authorities thereof, the Central Bank or any financial institution controlled by that Government, or interest derived on loans guaranteed by that Government shall be exempt from tax in the first-mentioned State.

4. For the purposes of paragraph 3, the terms "the Central Bank" and "financial institution controlled by that Government" mean:

   (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 the Republic of Indonesia, as may be agreed upon from time to time between the competent authorities of the Contracting States;
   (b) In the case of the Hungarian People's Republic:
      (i) the National Bank of Hungary;

(ii) such other financial institution in which the State has majority equity participation as may be agreed upon from time to time between the competent authorities of the Contracting States.

5. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by a mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures.

6. 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 Article 14, as the case may be, shall apply.

7. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subpision, 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.

8. 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.

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## 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 15% of the gross amount of the royalties.
   The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematograph films. or films or tapes for radio or television broadcasting, any patent, trademark, design or model, plan, secret formula or process, or for the use of, or the rights to use, industrial, commercial, or scientific equipment, or 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 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 subpision, 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 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 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. 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.

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3. Gains derived by a resident of a Contracting State from the alienation of aircraft operated in international traffic or movable property pertaining to the operation of such aircraft shall be taxable only in that State.

4. Gains from the alienation of any property other than that referred to in the preceding paragraphs shall be taxable only in the Contracting State of which the alienator is resident.

**Article 14**
**INDEPENDENT PERSONAL SERVICES**

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of 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 aggregating 90 days in any twelve-month period. If he has 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 in that other State during the aforesaid period or periods. I

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, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting state shall be taxable only in the first - mentioned State, if:

   (a) the recipient is present in that other State for period or periods not exceeding in the aggregate 183 days within any period of 12 Months; and
   (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and

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(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 on derived In respect of an employment exercised aboard a ship or aircraft operated in international traffic by a resident 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 other 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 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 artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised. x

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from the 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 the other Contracting State, a local authority or public institution thereof.

**Article 18**
**PENSIONS**

Subject to the provisions of Article 19, paragraph 1:

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(a) pensions and other remuneration, which are paid by an enterprise of one of the two States to a resident of the other State in consideration of an employment formerly exercised in the service of that enterprise, the contribution of which has been deducted from the taxable income arising in the first-mentioned State, may be taxed in the first-mentioned State;

(b) all other pensions and other similar remuneration paid to a resident of one of the two States in consideration of past employment shall be taxable only in that State.

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

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1.(a) Remuneration, other than a pension, paid by a Contracting State or a political subpision or a local authority thereof to an inpidual in respect of services rendered to that State or political subpision 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 inpidual is a resident of that State who:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of rendering the services.

2.(a) Any pension paid by, or out of funds created by, a Contracting State or a political subpision or a local authority thereof to an inpidual in respect of services rendered to that State, a political subpision or authority shall be taxable only in that State.

(b) However, such pension shall be taxable only in the other Contracting State if the inpidual 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 any trade or business carried on by one of the Contracting States or a political or administrative subpision or a local authority thereof.

**Article 20**
**TEACHERS AND RESEARCHERS**

A professor, teacher or researcher who makes a temporary visit to a Contracting State solely for the purpose of teaching or conducting research at a university, college, school or other recognized educational institution, and who is, or immediately before such visit was, a resident of the other Contracting State shall be exempt from tax in the first-mentioned State for a period not exceeding two years in respect of remuneration for such teaching or research.

**Article 21**
**STUDENTS**

Payments which a student, apprentice or business trainee who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or

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training receives for the purpose of his maintenance, education or training shall not be taxed in that first-mentioned State, provided that such payments are made to him from sources outside that State.

**Article 22**
**OTHER INCOME**

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Agreement shall be taxable only in that State except that, if such income is derived from sources within the other Contracting State, it may also be taxed in that other State.

**Article 23**
**ELIMINATION OF DOUBLE TAXATION**

1. It is agreed that double taxation shall be avoided in accordance with the following paragraphs of this Article.
2. Where a resident of Indonesia derives income from the Hungarian People's Republic in accordance with the provisions of this Agreement, the amount of Hungarian 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 such income.

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3.(a) Where a resident of the Hungarian People's Republic derives income which, in accordance with the provisions of this Agreement, may be taxed in the Republic of Indonesia, the Hungarian People's Republic shall, subject to the provisions of this paragraph, exempt such income from tax.

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(b) Where a resident of the Hungarian People's Republic derives items of income which, in accordance with the provisions of Articles 10, 11 and 12, may be taxed in the Republic of Indonesia, the Hungarian People's Republic shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in the Republic of Indonesia. Such deduction shall not, however

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

**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 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.

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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 the 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. 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 more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

4. Except where the provisions of Article 9, paragraph 7 of Article 11, or paragraph 4 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 the other enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

5. In this Article the term "taxation" means taxes which are the subject of this Agreement.

**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 this Agreement, he may, irrespective of the remedies provided by the national laws 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. The case must be presented within two years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

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 which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. The competent authorities, through consultations, shall develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure provided for in this Article.

**Article 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 covered by the Agreement in so far as the taxation thereunder is not contrary to the Agreement, in particular for the prevention of fraud or evasion of such taxes. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that

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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 which are subject to 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 shalI 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, of 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 diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

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**Article 28**
**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 latter of the notifications referred to in paragraph 1 and its provisions shall have effect:

   (i) in resped of taxes withheld at source, an 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 the Agreement enters into force.

**Article 29**
**TERMINATION**

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving written notice of termination on or before the thirtieth day of June of any calendar year following after the period of five years from the year in which the Agreement enters into force. In such case, the Agreement shall cease to have effect in respect of income derived on or after 1 January of the year next following that in which

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the notice of termination is given.

IN WITNESS WHEREOF the undersign, duty authorized thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at Jakarta on the 19th day of October 1989 in the English Language.

| For the Government of<br>The Republic of Indonesia | For the Government of<br>The Hungarian Peoples Republic |
|---|---|

PROTOCOL

At the signing today of the Agreement between the Government of the Hungarian People's Republic and the Government of the Republic of Indonesia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed upon the following provisions which shall form an integral part of the Agreement.

**1. With reference to Article 5**
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It is understood that the term "place of business" includes also a place of production.

**2. With reference to Article 5, paragraph 4, sub-paragraphs (a) and (b)**
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It is understood that the provisions of Article 5, paragraph 4, sub-paragraphs (a) and (b) refer also to mere delivery provided that it is not a regular and not accompanied with sales.

**3. With reference to Article 5, paragraph 4**
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The use of facilities, solely for the purpose of initial setting up and delivery of machinery or equipment shall not constitute a permanent establishment.

**4. With reference to Article 7, paragraph 4**
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The term "mere purchase" does not include the purchase by such permanent establishment for another enterprise.

**5. With reference to Article 8**
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The profits of shipping and airline enterprise engaged in international traffic shall include additional activities closely connected with the direct operation of ships and aircraft.

**6. With reference to Article 11, paragraph 5**
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The term "interest" means also the income assimilated to income from money lent by the taxation law of the State in which the income arises, including interest on deferred payments sales.

**7. With reference to Article 24, paragraph 4**
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The Contracting States have, however, the right to limit the debt-equity ratio in accordance with their domestic laws.

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

Done in duplicate at Jakarta on the l9th day of October 1989 in the English language.

**EXCHANGE OF LETTERS**

**I**

Jakarta, October 19, 1989

Excellency,

I have the honour to refer to the Agreement which was signed today.

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In connection with the Agreement between the Government of the Hungarian People's Republic and the Government of the Republic of Indonesia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed today, the Hungarian People's Republic acknowledges the fact that when the said Agreement enters into force, Section 26e of the Indonesian Tax Law will still be applicable in respect of income taxation of profits of a permanent establishment in Indonesia. However, the foregoing provision will not be applicable if the taxpayer can produce an evidence that such profit is not transferred or distributed to its parent company. In case there is any doubt regarding the application of the provisions of this Section considering the principles contained in the said Agreement, the two Governments shall endeavour to settle the question by mutual agreement.

If the foregoing is acceptable to the Government of the Republic of Indonesia, I have the honour to propose that this note together with your confirmatory reply shall constitute an Agreement between our Governments which shall enter into force on October 19, 1989.

Accept, Excellency, the renewed assurances of my highest consideration.

Gombocz Zoltan

H. E. Nasrudin Sumintapura
Junior Minister of Finance

**II**

Jakarta, October 19, 1989

Excellency,

I have the honour to acknowledge receipt of Your Excellency's Note of October 19, 1989 which reads as follows:

[See I]

I have further the honour to confirm that the content of Your Excellency's Note referred to above is acceptable to my Government and to agree that Your Excellency's Note and this reply shall constitute an Agreement between our two governments which shall enter into force on October 19, 1989.

Accept, Excellency, the renewed assurances of the highest consideration.

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Nasrudin Sumintapura

H. E. Gombocz Zoltan
Secretary of State of the Ministry of Trade

of the Hungarian People's Republic

Excellency,

1 have the honor to acknowledge receipt of Your Excellencys Note of October 19, 1989 which reads as follows:

I have the honor to refer to the recent discussion tax delegations of our two Governments and to inform you as fallows:

In connection with the Agreement between the Government of the Hungarian People's Republic and the Government of the Republic of Indonesia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on income signed today, the Hungarian Peoples Republic acknowledges the fact that when the said Agreement enters into force, Section 26e of the Indonesian Tax Law will still be applicable in respect of income taxation of profits of a permanent establishment in Indonesia. However, the foregoing provisions will not be applicable if the taxpayer can produce an evidence that such profit is not transferred or distributed to its parent company. Incase there is any doubt regarding the application of the provisions of this Section considering the principles contained in the said Agreement, the two Governments shall endeavor to settle the question by mutual agreement.

I have further the honor to confirm that the content of Your Excellencys Note referred to above is acceptable to my Government and to agree that Your Excellencys Note and this reply shall constitute an Agreement between our two governments which shall enter into force on October 19, 1989. Accept, Excellency, the renewed assurances of the highest consideration.

H.E. GOMBOCZ ZOLTAAN
Secretary of State of the Ministry of Trade
of the Hungarian Peoples Republic.

NASRUDIN SUMINTAPURA

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