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**AGREEMENT BETWEEN  
THE REPUBLIC OF INDONESIA  
AND  
THE REPUBLIC INDIA**

**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 resident of one or both of the Contracting States.

**Article 2  
TAXES COVERED**

1. The taxes to which this 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  
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  
Royalty 1970  
(Law No. 10 of  
1970);  
(hereinafter  
referred to as  
"Indonesian  
Tax").

(b) in India :

(i) the  
income  
tax  
including  
any  
surcharge  
thereon  
imposed  
under  
the  
Income  
Tax  
Act,  
1961  
(43 of  
1961);

(ii) the  
surtax  
imposed  
under  
the  
Companies  
(Profits)  
Surtax  
Act,  
1964  
(7 of  
1964);  
(hereinafter  
referred  
to as  
"Indian  
Tax").

2. The Agreement shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of the present Agreement in addition to, or in place of, the taxes referred to in paragraph 1. The competent authorities of the Contracting States shall notify each other of any substantial changes which are made in their respective taxation laws.

## **Article 3 GENERAL DEFINITIONS**

1. In 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 sovereignty, sovereign rights or jurisdiction in accordance with International Law, particularly the provisions of the United Nations Convention on the Law of the Sea, 1982;

(b) the term "India" means the territory of India and includes the territorial sea and air space above it, as well as any other maritime zone in which India has sovereignty, sovereign rights, other rights and jurisdiction according to the Indian Law and in accordance with International Law, particularly the United Nations Convention on the Law of the Sea, 1982;

(c) the terms "a Contracting State" and "the other Contracting State" mean Indonesia or India as the context requires;

(d) the term "tax" means Indonesian tax or Indian tax, as the context requires, but shall not include any amount which is payable in respect of any default or omission in relation to the taxes to which this Agreement applies or which represents a penalty imposed relating to those taxes;

(e) the term "person" includes an individual, a company and any other entity which is treated as a taxable unit under the taxation laws in force in the respective Contracting States;

(f) the term  
"company"  
means any  
body  
corporate or  
any entity  
which is  
treated as a  
company or  
body  
corporate  
under the  
taxation laws  
in force in the  
respective  
Contracting  
States;

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

(h) the term "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;

(i) the term "competent authority" means in the case of Indonesia, the Minister of Finance or his authorized representative; and in the case of India, the Central Government in the Ministry of Finance (Department of Revenue) or their authorized representative;

(j) the term "national" means any individual possessing the nationality of a Contracting State and any legal person, partnership or association deriving its status from the laws in force in the 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 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 Contracting States shall settle the question by mutual agreement keeping in view its place of incorporation, its place of effective management and other relevant factors.

## **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, quarry or any other place of extraction of natural resources;

- (g) a building site or construction, installation or assembly project or supervisory activities in connection therewith, but only where such site, project or activity continues for a period more than 183 days.

3. 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 for  
the  
enterprise.

4. Where a person -- other than an agent of an independent status to whom the provisions of paragraph 7 apply -- 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:

(a)  
that person  
has, and  
habitually  
exercises in  
the first-  
mentioned  
State, an  
authority to  
conclude  
contracts on  
behalf of the  
enterprise;  
or

(b)  
that person  
maintains in  
the first-  
mentioned  
Contracting  
State a  
stock of  
goods or  
merchandise  
belonging to  
the  
enterprise  
from which  
he regularly  
delivers  
goods or  
merchandise  
on behalf of  
the  
enterprise.

5. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it furnishes services, including consultancy services in that other Contracting State through employees or other personnel -- other than an agent of an independent status to whom the provisions of paragraph 7 apply -- provided that activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than 91 days in any twelve-month period.
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 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 property, including income from agriculture or forestry, situated in the other Contracting State may be taxed in that other State.
2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or

the right to work, mineral deposits, sources and other natural resources. Ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

## Article 7 BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries 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:
  - that
  - (a) permanent establishment;  
sales in that other State of goods or merchandise
  - (b) of the same or similar kind as those sold through that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of 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 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. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as

may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

## **Article 8 SHIPPING AND AIR TRANSPORT**

1. Profits 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 of this Article shall also apply to profits from participation in a pool, a joint business or an international operating agency.
3. For the purposes of this Article, interest on funds connected with the operation of ships or aircraft in international traffic shall be regarded as profits derived from the operation of such ships or aircraft and the provisions of Article 11 shall not apply in relation to such interest.
4. The term "operation of ships or aircraft" shall mean business of transportation of passengers, mail, livestock or goods carried on by the owners or lessees or charterers of ships or aircraft, including the sale of tickets for such transportation on behalf of other enterprises, the incidental lease of ships or aircraft and any other activity directly connected with such transportation.

## **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 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 profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be 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 resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

(a)  
10% of  
the gross  
amount  
of  
dividends  
if the  
beneficial  
owner is  
a  
company  
which  
owns at  
least 25%  
of the  
shares of  
the  
company  
paying  
the  
dividends;

(b)  
15% 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 in so far as such dividends are paid to a resident of that other State or in so far 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.

## 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 :
  - (a) interest arising in a Contracting State shall be exempt from tax in that State provided it is derived and beneficially owned by:
    - (i) the Government, a political subdivision or a local authority of the other Contracting State; or

(ii) the  
Central  
Bank  
or  
any  
agency  
or  
instrumentality  
(including  
a  
financial  
institution)  
wholly  
owned  
by  
the  
other  
Contracting  
State  
or  
political  
sub-  
division  
or  
local  
authority  
thereof;

(b) interest arising in a  
Contracting State  
shall be exempt  
from tax in that  
Contracting State to  
the extent approved  
by the Government  
of that State if it is  
derived and  
beneficially owned  
by any person other  
than a person  
referred to in sub-  
paragraph (a) who is  
a resident of the  
other Contracting  
State provided that  
the transaction  
giving rise to the  
debt-claim has been  
approved in this  
regard by the  
Government of the  
first-mentioned  
Contracting State.

4. The term "interest" as used in this Article means income from debt-claims of every kind (including interest on deferred payment sales), 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. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.
6. Interest shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a political sub-pision, 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 Contracting 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 15% of the gross amount of the royalties.
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 used for radio or television broadcasting, any patent, trademark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-pision, 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 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 together with the whole enterprise) or of such fixed base, may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State of which the alienator is a resident.
4. Gains from the alienation of any property other than that mentioned in paragraphs 1, 2 and 3 shall be taxable only in the Contracting State of which the alienator is a resident.

## **Article 14 INDEPENDENT PERSONAL SERVICES**

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State except in the following circumstances when such income may also be taxed in the other Contracting State:

(a)  
if he has a  
fixed base  
regularly  
available to  
him in the  
other  
Contracting  
State for  
the purpose  
of  
performing  
his  
activities;  
in that  
case, only  
so much of  
the income  
as is  
attributable  
to that  
fixed base  
may be  
taxed in  
that other  
Contracting  
State; or

(b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 91 days in any twelve-month period; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.

2. The term "professional services" includes independent scientific, literary, artistic, educational or teaching activities, as well as the independent activities of physicians, surgeons, lawyers, engineers, architects, dentists and accountants.

## **Article 15 DEPENDENT PERSONAL SERVICES**

1. Subject to the provisions of Articles 16, 17, 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 the other State for a period or periods not exceeding in the aggregate 183 days in 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 preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State shall be taxable only in that State.

## **Article 16 DIRECTORS' FEES**

Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors (by whatever name called) of a company which is a resident of the other Contracting State may be taxed in that other State.

## **Article 17 ENTERTAINERS 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.
3. Notwithstanding the provisions of paragraph 1, income derived by an entertainer or an athlete who is a resident of a Contracting State from his personal activities as such exercised in the other Contracting State, shall be taxable in the first-mentioned Contracting State if:
  - (a) the activities in the other Contracting State are supported wholly or substantially from the public funds of the first-mentioned Contracting State, including any of its political subdivisions or local authorities; or
  - (b) the activities in the other Contracting State are in pursuance of a special programme for cultural exchange agreed upon between the Governments of the two Contracting States.
4. Notwithstanding the provisions of paragraph 2 and Articles 7, 14 and 15, where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such in a Contracting State accrues not to the entertainer or athlete himself but to another person, that income shall be taxable only in the other Contracting State if:

(a) that other person is supported wholly or substantially from the public funds of that other State, including any of its political sub-pisions or local authorities, or

(b) the activities are exercised by an individual, being a resident of the other Contracting State, in pursuance of a special programme for cultural exchange agreed upon between the Governments of the two Contracting States and that other person to whom income therefrom accrues is a resident of the other Contracting State.

## Article 18

### REMUNERATION AND PERSONS IN RESPECT OF GOVERNMENT SERVICE

1. Remuneration, other than a pension, paid by a Contracting State or a political sub-pision or a local authority thereof to an individual in respect of services rendered to that State or sub-pision or authority shall be taxable only in that State. 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:

(a)  
is a  
national  
of that  
State; or

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

2. Any pension paid by, or out of funds created by, a Contracting State or a political sub-division or a local authority thereof to an individual in respect of services rendered to that State or sub-division or authority shall be taxable only in that State. 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 17 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political sub-division or a local authority thereof.

## **Article 19** **NON-GOVERNMENT PENSIONS AND ANNUITIES**

1. Any pension, other than a pension referred to in Article 18, or any annuity derived by a resident of a Contracting State from sources within the other Contracting State may be taxed only in the first-mentioned Contracting State.
2. Notwithstanding the provisions of paragraph 1, pensions paid out of a pension fund approved by the Government of a Contracting State (or its authorised Agency) to a resident of the other Contracting State in consideration of past employment may be taxed in the first-mentioned State.
3. The term "pension" means a periodic payment made in consideration of past services or by way of compensation for injuries received in the course of performance of services.
4. The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

## **Article 20** **STUDENTS AND APPRENTICES**

1. A student or business apprentice who is or was a resident of one of the Contracting States immediately before visiting the other Contracting State and who is present in that other State solely for the purpose of his education or training, shall be exempt from tax in that other State on:

(a)  
payments  
made to him  
by persons  
residing  
outside that  
other State  
for the  
purpose of  
his  
maintenance,  
education or  
training; and

(b)  
remuneration  
from  
employment  
in that other  
State, in an  
amount not  
exceeding  
20,000 Rp or  
2,000,000 Rp  
during any  
twelve-  
month  
period, as the  
case may be,  
provided that  
such  
employment  
is directly  
related to his  
studies or is  
undertaken  
for the  
purpose of  
his  
maintenance.

2. The benefits of this Article shall extend only for such period of time as may be reasonable or customarily required to complete the education or training undertaken, but in no event shall any individual have the benefits of this Article for more than five consecutive years from the date of his first arrival in that other Contracting State.

## Article 21 PROFESSORS, TEACHERS AND RESEARCH SCHOLARS

1. A professor or teacher who is or was a resident of one of the Contracting States immediately before visiting the other Contracting State for the purpose of teaching or engaging in research, or both, at a university, college, school or other approved institution in that other Contracting State shall be exempt from tax in that other State on any remuneration for such teaching or research for a period not exceeding two years from the date of his arrival in that other State.
2. This Article shall not apply to income from research if such research is undertaken primarily for the private benefit of a specific person or persons.

3. For the purposes of this Article and Article 20, an individual shall be deemed to be a resident of a Contracting State if he is resident in that Contracting State in the year of income in which he visits the other Contracting State or in the immediately preceding year of income.
4. For the purposes of paragraph 1, "approved institution" means an institution which has been approved in this regard by the competent authority of the concerned Contracting State.

## **Article 22 OTHER INCOME**

1. Subject to the provisions of paragraph 2, items of income of a resident of a Contracting State, wherever arising, which are not expressly dealt with in the foregoing articles of this Agreement, shall be taxable only in that Contracting 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.
3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement and arising in the other Contracting State may also be taxed in that other State.

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

1. The laws in force in either of the Contracting States shall continue to govern the taxation of income in the respective Contracting State except where provisions to the contrary are made in this Agreement.
2. The amount of Indian tax payable under the laws of India and in accordance with the provisions of this Agreement, whether directly or by deduction, by a resident of Indonesia, in respect of profits or income arising in India, which has been subjected to tax both in Indonesia and in India, shall be allowed as a credit against Indonesian tax payable in respect of such profits or income provided that such credit shall not exceed the Indonesian tax (as computed before allowing any such credit) which is appropriate to the profits or income arising in India.
3. The term "Indian tax payable" shall be deemed to include the amount of Indian tax which would have been paid if the Indian tax had not been exempted or reduced in accordance with the special incentive measures under the provisions of the Indian Income Tax Act, 1961 (43 of 1961), which are designed to promote economic development in India, effective on the date of signature of this Agreement, or which may be introduced in the future in modification of, or in addition to, the existing provisions for promoting economic development in India, and such other incentive measures which may be agreed upon from time to time by the Contracting States.
4. The amount of Indonesian tax payable, under the laws of Indonesia and in accordance with the provisions of this Agreement, whether directly or by deduction, by a resident of India, in respect of profits or income arising in Indonesia, which has been subjected to tax both in Indonesia and in India, shall be allowed as a credit against the Indian tax payable in respect of such profits or income provided that such credit shall not exceed the Indian tax (as computed before allowing any such credit) which is appropriate to the profits or income arising in Indonesia. Further, where such resident is a company by which surtax is payable in India, the credit aforesaid shall be allowed in the first instance against income tax payable by the company in India and as to the balance, if any, against surtax payable by it in India.

5. The term "Indonesian tax payable" shall be deemed to include the amount of Indonesian tax which would have been paid if the Indonesian tax had not been exempted or reduced in accordance with the special incentive measures under Article 33 of Law No. 7 of 1983 (Undang-Undang Pajak Penghasilan 1984) which are designated to promote economic development in Indonesia, effective on the date of signature of this Agreement, or which may be introduced in the future in modification of, or in addition to, the existing provisions for promoting economic development in Indonesia, and such other incentive measures which may be agreed upon from time to time by the Contracting States.

## **Article 24** **NON-DISCRIMINATION**

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than 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 in the same circumstances.
3. Nothing contained in this Article shall be construed as obliging a Contracting State to grant to persons not resident in that State any personal allowances, reliefs, reductions and deductions for taxation purposes which are by law available only to persons who are so resident.
4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected in the same circumstances.
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 the provisions of this Agreement, he may, notwithstanding 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. This case must be presented within three years of the date of receipt of notice of the action which gives rise to taxation not in accordance with 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 an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the national laws 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. 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 26 EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information (including documents) as is necessary for carrying out the provisions of the 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. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State. However, if the information is originally regarded as secret in the transmitting State, it shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of the Agreement. Such persons or authorities shall use the information only for such purposes but may disclose the information in public court proceedings or in judicial decisions. The competent authorities shall, through consultation, develop appropriate conditions, methods and techniques concerning the matters in respect of which such exchange of information shall be made, including, where appropriate, exchange of information regarding tax avoidance.
2. The exchange of information or documents shall be either on a routine basis or on request with reference to particular cases or both. The competent authorities of the Contracting States shall agree from time to time on the list of the information or documents which shall be furnished on a routine basis.
3. In no case shall the provision 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 or administrative practice of that or of the other Contracting State;
  - (b) to supply information or documents which are not obtainable under the laws or in the normal course of the administrative of that or of the other Contracting State;



- (c) to supply information or documents 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.

## Article 27

### DIPLOMATIC AND CONSULAR ACTIVITIES

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

## Article 28

### ENTRY INTO FORCE

Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Agreement. This Agreement shall enter into force on the date of the later of these notifications and shall thereupon have effect:

- (a) in Indonesia, in respect of income arising in any year of income beginning on or after the first day of January next following the calendar year in which the latter of the notifications is given;

(b)  
in India, in  
respect of  
income  
arising in  
any  
previous  
year  
beginning  
on or after  
the first day  
of April  
next  
following  
the calendar  
year in  
which the  
later of the  
notifications  
is given.

## Article 29 TERMINATION

This Agreement shall remain in force indefinitely but either of the Contracting States may, on or before the thirtieth day of June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give the other Contracting State, through diplomatic channels, written notice of termination and, in such event, this Agreement shall cease to have effect:

(a)  
in  
Indonesia,  
in respect  
of income  
arising in  
any year of  
income  
beginning  
on or after  
the first  
day of  
January  
next  
following  
the  
calendar  
year in  
which the  
the notice  
of  
termination  
is given ;

(b)  
in India, in  
respect of  
income  
arising in  
any  
previous  
year  
beginning  
on or after  
the first  
day of  
April next  
following  
the  
calendar  
year in  
which the  
notice is  
given.

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

DONE in duplicate at Jakarta this seventh day of August one thousand nine hundred and eighty seven in Bahasa Indonesia, Hindi and English languages, all texts being equally authentic. In the case of pergence of interpretation, the English text shall prevail.

For the Government of  
the Republic of Indonesia

For the Government of  
the Republic of India

## PROTOCOL

The Government of the Republic of Indonesia and the Government of the Republic of India, having entered into an Agreement for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income, have agreed, at the time of signing the said Agreement, on the following provision which shall constitute an integral part thereof :

1. For purposes of Article 7 where a company which is a resident of a Contracting State has a permanent establishment in the other Contracting State, the profits attributable to 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 10% of the amount of such profits after deducting therefrom income tax and other taxes on income imposed thereon in that other Contracting State.
2. The provisions of paragraph 1 shall not affect the provisions contained in any production sharing contracts and contracts of work (or any other similar contracts) relating to oil and gas sector or other mining sector negotiated and concluded by the Government of Indonesia, its instrumentality, its relevant state oil and gas company or any other entity thereof before the first day of January 1984, with a person who is resident of India.
3. The provisions of paragraph 2 of Article 11 shall also apply to interest arising to a branch of a resident of a Contracting State in any Third Country
4. Notwithstanding the provisions of Article 24, the provision of this Agreement shall not be construed to restrict in any manner any exclusion, exemption, deduction, credit, or other allowance now or hereafter accorded :

(a)  
by the laws  
of one of the  
Contracting  
State in the  
determination  
of the tax  
imposed by  
that  
Contracting  
State, or

(b)  
by any other  
special  
arrangement  
on taxation in  
connection  
with the  
economic or  
technical  
cooperation  
between the  
two  
Contracting  
States.

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

DONE in duplicate at Jakarta this seventh day of August one thousand nine hundred any eighty seven in Bahasa Indonesia, Hindi and English languages, all texts being equally authentic. In the case of pergence of interpretation the English text shall prevail.

For the Government of  
the Republic of Indonesia

For the Government of  
the Republic of India

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