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**AGREEMENT BETWEEN  
THE GOVERNMENT OF THE REPUBLIC OF INDONESIA  
AND  
THE GOVERNMENT OF THE KINGDOM OF BELGIUM**

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

**CHAPTER I  
SCOPE OF THE AGREEMENT**

**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 and on capital imposed on behalf of each Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, 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 the case of Indonesia:
    - (i) the income tax (pajak pendapatan);
    - (ii) the company tax (pajak perseroan);
    - (iii) the capital tax (pajak kekayaan);
    - (iv) the tax on interest, dividend and royalty (pajak atas bunga, dividend dan royalty) (hereinafter referred to as "Indonesian tax");
  - (b) in the case of Belgium:
    - (i) the Dividend income tax (de personenbelasting -- l'impôt des personnes physiques);
    - (ii) the corporate income tax (de vennootschapsbelasting -- l'impôt des sociétés);
    - (iii) the income tax on legal entities (de rechtspersonenbelasting -- l'impôt des personnes morales);
    - (iv) the income tax on non-residents (de belasting der niet-verblijfhouders -- l'impôt des non-résidents);
    - (v) the prepayments and additional prepayments (de voorheffingen en aanvullende voorheffingen -- les precomptes et compléments de precomptes); and

(vi) the  
surcharges  
(de  
opdecimen  
en  
opcentimen  
-- les  
decimes et  
centimes  
additionnels)  
on any of  
the taxes  
referred to  
in (i) to (v)  
above  
including  
the  
communal  
supplement  
to the  
individual  
income tax  
(aanvullende  
gemeentebelasting  
-- taxe  
communale  
additionnelle  
a l'impot  
des  
personnes  
physiques);

(hereinafter  
referred to as  
"Belgian tax").

4. The Agreement shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify to each other any substantial changes which have been made in their respective taxation laws.

5. If by reason of changes, made in the taxation law of either Contracting State, it seems desirable to amend any Article of this Agreement without affecting the general principles thereof the necessary amendments may be made by mutual consent by means of an exchange of diplomatic notes or in any other manner in accordance, with their constitutional procedures.

## CHAPTER II DEFINITIONS

### Article 3 GENERAL DEFINITIONS

1. In this Agreement, unless the context otherwise requires:

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

- (b) the term "Indonesia" comprises the territory of the Republic of Indonesia and the parts of the sea bed and sub-soil under the adjacent seas, over which the Republic of Indonesia has sovereign rights in accordance with international law;
- (c) the term "Belgium" comprises the territory of the Kingdom of Belgium and the parts of the sea bed and sub-soil and adjacent seas, over which the Kingdom of Belgium has sovereign rights in accordance with international law;
- (d) the term "tax" means Indonesian tax or Belgian tax, as the context requires;
- (e) the term "person" comprises an individual, a company and any other body of persons;
- (f) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes in the Contracting State of which it is a resident;
- (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 "competent authority" means:
- (i) in Indonesia, the Minister of Finance or his duly authorized representative;

- (ii) in Belgium, the  
Director general  
of direct taxes.

2. As regards the application of the Agreement by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the Agreement.

## Article 4 FISCAL DOMICILE

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his case shall be determined in accordance with the following rules:
- (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);
  - (b) if the Contracting 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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
  - (c) if he has an habitual abode in both Contracting 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, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

## Article 5 PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.
2. The term "permanent establishment" shall include especially:
- (a) a place of management;
  - (b) a branch;
  - (c) an office;
  - (d) a factory;
  - (e) a workshop;
  - (f) a farm or plantation;
  - (g) a mine, an oil-well, quarry or other place of extraction of natural resources;

(h) a building site or construction, installation or assembly project or supervisory activities in connection therewith, where such site, project of activity continues for a period of more than six months;

(i) the furnishing of services including consultancy services by an enterprise through an employee or other personnel where activities of that nature continue within a Contracting State for a period or periods exceeding in the aggregate 183 days within any twelve-month period.

3. The term "permanent establishment" shall not be deemed 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 for 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. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State -- other than an agent of an independent status to whom paragraph 6 applies -- shall be deemed to be a permanent establishment in the first-mentioned Contracting State if:
- (a) he has, and habitually exercises in that first-mentioned Contracting State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or
  - (b) he maintains in the first-mentioned Contracting State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise.
5. 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 the territory of that other Contracting 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 6.
6. 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 Contracting State through a broker, general commission agent or any other agent of an independent status, where 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 would not be considered an agent of an independent status within the meaning of this paragraph.
7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

## CHAPTER III TAXATION OF INCOME

### Article 6 INCOME FROM IMMOVABLE PROPERTY

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.
2. The term "immovable property" shall be defined in accordance with the laws of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, 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 professional services.

## Article 7 BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that Contracting 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 Contracting State, but only so much of them as are attributable to that permanent establishment or are derived within such other Contracting State from sales of goods or merchandise of the same kind as those sold, or from other business transactions of the same kind as those effected, through the permanent establishment.
2. 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 the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down 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

Notwithstanding the provisions of Article 7, profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

## Article 9 ASSOCIATED ENTERPRISES

Where:

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

- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for these 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 Contracting State.
2. However, such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State, but the tax so charged shall not exceed in the aggregate 15 per cent of the gross amount of the dividends. 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, "jouissance" shares or "jouissance" rights, founders' shares or other rights participating in profits, as well as income from other corporate rights treated in the same way as income from shares by the taxation law of the Contracting State of which the company making the distribution is a resident.
4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of Article 7 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 Contracting State may not impose any tax on the dividends paid by the company outside that other Contracting State to persons who are not residents of that other Contracting State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.
6. Notwithstanding the provisions of paragraph 5, where a company which is a resident of Belgium has a permanent establishment in Indonesia, that permanent establishment may be subjected there to the tax referred to in paragraph 3(a)(iv) of Article 2, but the tax so charged shall not exceed 15 per cent of the amount of the profits of that permanent establishment which are actually remitted to the place of effective management in Belgium, provided that such permanent establishment is engaged in activities in the fields of agriculture, plantation, forestry, fishery, dairy-farming, mining, manufacturing industries, transportation, people's housing projects, tourism and infrastructure.

## Article 11 INTEREST

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



2. However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that Contracting State, but the tax so charged shall not exceed in the aggregate 15 per cent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2 the tax levied by the Contracting State in which the interest arises shall not exceed in the aggregate 10 per cent of the gross amount of the interest, if:
  - (a) the interest is owed by a bank or a financial institution or by an enterprise mainly engaged in activities in the fields of agriculture, plantation, forestry, fishery, dairy-farming, mining, manufacturing industries, transportation, people's housing projects, tourism and infra-structure, and
  - (b) the interest is derived by a bank or a financial institution.
4. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, debt-claims and deposits of every kind as well as premiums on lottery bonds and all other income treated in the same way as income from money lent or deposited by the taxation law of the Contracting State in which the income arises.
5. The provisions of paragraphs 1, 2 and 3 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim or deposit from which the interest arises is effectively connected. In such a case, the provisions of Article 7 shall apply.
6. Interest shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a political subdivision, a local authority or a resident of that Contracting 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.
7. Where, owing to a special relationship between the payer and the recipient or depositor or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim or deposit for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient or depositor in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law 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 be taxed in the Contracting State in which they arise and according to the law of that Contracting State, but the tax so charged shall not exceed in the aggregate 10 per cent of the gross amount of the royalties.

3.

The term "royalties" 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 and films or tapes for radio or television broadcasting -- any patent, trade mark, design or model, plan secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial or scientific experience.
4.

The provisions of paragraphs 1 and 2 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the provisions of Article 7 shall apply.
5.

Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the contract under which the royalties are paid was concluded, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.
6.

Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

## **Article 13** **CAPITAL GAINS**

1.

Gains from the alienation of immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.
2.

Gains from the alienation of movable property forming part of the business 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 professional services, including such gains from the alienation of such permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other Contracting State. However, gains from the alienation of ships and aircraft operated in international traffic and of movable property pertaining to the operation of such ships and aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
3.

Gains from the alienation of any property other than those mentioned in paragraphs 1 and 2 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 Contracting State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in that other Contracting State but only so much of it as is attributable to that fixed base.

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 Contracting 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 Contracting 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 Contracting State, if:

(a)

the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days within a period of twelve months, and

(b)

the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Contracting State, and

(c)

the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other Contracting State.

3.

Notwithstanding the preceding provisions of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft in international traffic shall be taxable only in that Contracting State.

## **Article 16 DIRECTORS' FEE**

1.

Remuneration and other payments derived by a resident of Belgium in his capacity as a "pengurus" or a "komisaris" of a company which is a resident of Indonesia may be taxed in Indonesia.

2.

Remuneration and other payments derived by a resident of Indonesia in his capacity as a member of the board of directors of a company which is a resident of Belgium may be taxed in Belgium.

3.

The remuneration which a person to whom paragraph 1 or 2 applies derives from the company in respect of the discharge of day-to-day functions of a managerial or technical nature may be taxed in accordance with the provisions of Article 15.

## **Article 17 ARTISTES AND ATHLETES**

Notwithstanding the provisions of Articles 5, 7, 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such, or income derived from the furnishing by an enterprise of the services of such public entertainers or athletes, may be taxed in the Contracting State in which these activities are exercised or services are rendered.

## Article 18 PENSIONS

Subject to the provisions of paragraph 1 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that Contracting State.

## Article 19 GOVERNMENT FUNCTIONS

1. Remuneration, including pensions, paid by, or out of funds, created by a Contracting State or a political subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof in the discharge of functions of a governmental nature may be taxed in that State.
2. Notwithstanding paragraph 1, the provisions of Articles 15, 16 or 18 apply to remuneration or pensions in respect of services rendered in connection with any trade or business carried on by a Contracting State or a political subdivision or a local authority thereof.
3. Paragraph 1 shall not apply in so far as services are rendered to a Contracting State in the other Contracting State by an individual who is a national of that other Contracting State.

## Article 20 PROFESSORS AND TEACHERS

An individual who sojourns in a Contracting State for a period not exceeding two years, for the primary purpose of teaching at a university, college, school or other educational institution or at a non-commercial and non-industrial research institute in that Contracting State and who immediately prior to such sojourn is a resident of the other Contracting State, shall not be taxed in the first-mentioned Contracting State in respect of any payments which he receives for such activity.

## Article 21 STUDENTS

1. An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State and is temporarily present in the other Contracting State solely as a student at a recognised university, college, school or other similar recognised educational institution in that other Contracting State or as a business or technical apprentice therein, for a period not exceeding five years from the date of his first arrival in that other Contracting State in connection with that visit, shall be exempt from tax in that other Contracting State on:
  - (a) all remittances from abroad for the purposes of his maintenance, education or training; and
  - (b) any remuneration not exceeding 60,000 Belgian francs or the equivalent in Indonesian currency during any calendar year in respect of services rendered in that other Contracting State with a view to supplementing the resources available to him for such purposes.
2. An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State and is temporarily present in the other Contracting State for the purposes of study, research or training solely as a recipient of a grant, allowance or award from the Government of either of the Contracting States or from a scientific, educational, religious or charitable organisation or under a technical assistance programme entered into by the Government of either of the Contracting States for a period not exceeding three years from the date of his first arrival in that other Contracting State in connection with that visit shall be exempt from tax in that other Contracting State on:
  - (a) the amount of such grant, allowance or award;

(b) all remittances from abroad for the purposes of his maintenance, education or training; and

(c) any remuneration not exceeding 100,000 Belgian francs or the equivalent in Indonesian currency during any calendar year in respect of services rendered in that other Contracting State if such services are performed in connection with his study, research, training or incidental thereto.

3. An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State and is temporarily present in that other Contracting State solely as an employee of, or under contract with, the Government or an enterprise of the first-mentioned Contracting State solely for the purpose of acquiring technical, professional or business experience for a period not exceeding twelve months from the date of his first arrival in that other Contracting State in connection with that visit shall be exempt from tax in that other Contracting State on:

(a) all remittances from abroad for the purposes of his maintenance, education or training; and

(b) any remuneration not exceeding 150,000 Belgian francs or the equivalent in Indonesian currency during any calendar year in respect of services rendered in that other Contracting State if such services are in connection with his studies or training or incidental thereto.

## **Article 22** **INCOME NOT EXPRESSLY MENTIONED**

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.

## **CHAPTER IV** **TAXATION OF CAPITAL**

### **Article 23** **CAPITAL**

1. Capital represented by immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.
2. Subject to the provisions of paragraph 3, capital represented by movable property forming part of the business property of a permanent establishment of an enterprise, or by movable property pertaining to a fixed base used for the performance of professional services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.
3. Ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

## CHAPTER V ELIMINATION OF DOUBLE TAXATION

### Article 24

1. Each of the two Contracting States, when imposing tax on its residents, may include in the basis upon which such taxes are imposed, the items of income or capital which according to the provisions of this Agreement may be taxed in the other Contracting State. Where income is subject to tax in both Contracting States, relief from double taxation shall be given in accordance with the following paragraphs of this Article.
2. Where a company which is a resident of a Contracting State owns shares in a company which is a resident of the other Contracting State, the dividends paid thereon to the former company which have not been dealt with in accordance with paragraph 4 of Article 10 shall be exempt in the first-mentioned Contracting State from the tax referred to in paragraph 3(a)(ii) or (b)(ii) of Article 2 to the extent that exemptions would have been accorded if the two companies had been residents of that first-mentioned Contracting State.
3. Subject to the provisions of paragraphs 4 and 5 of this Article the Contracting State of which the recipient of the income or the owner of the capital is a resident shall allow a deduction from the tax computed in conformity with the first paragraph of this Article equal to such part of that tax which bears the same proportion to the aforesaid tax as the part of the income or capital which is included in the basis mentioned in the first paragraph of this Article and may be taxed in the other Contracting State according to the provisions this Agreement bears to the total income or capital which forms the said basis.
4. The deduction referred to in paragraph 3 of this Article shall not be allowed by a Contracting State in respect of income which may be taxed in the other Contracting State to the extent that this income has not been charged in that other Contracting State because of the set-off of losses also deducted, in respect of any accounting period, from income taxable in the first-mentioned Contracting State.
5. In cases not covered by paragraph 2 of this Article, the Contracting State of which the recipient of the income is a resident shall allow a credit against its tax charged on income derived from the other Contracting State, if such income is:
  - dividends dealt with in paragraph 2 of Article 10;
  - interest dealt with in paragraphs 2, 3 and 7 of Article 11;
  - royalties dealt with in paragraph 2 and 6 of Article 12.This credit shall be:

(a) in Belgium, an amount equal to 15 per cent of the gross amount of such dividends, interest or royalties insofar as it is included in the taxable basis of the said resident, and

(b) in Indonesia, an amount equal to the tax paid in Belgium on that income, provided that this amount shall not exceed that part of the Indonesian tax computed in conformity with the first paragraph of this Article which is appropriate to the income derived from Belgium.

6. A company which is a resident of Belgium and which owns directly shares in a company which is a resident of Indonesia during the whole of the accounting period of the latter company shall likewise be exempted or granted relief from the prepayment on income from movable property chargeable in accordance with Belgian law on the net amount of the dividends referred to above which are paid to it by the said company which is a resident of Indonesia and is liable to the tax referred to in paragraph 3(a)(ii) of Article 2, provided that it so requests in writing not later than the time limited for the submission of its annual return, on the understanding that, on redistribution to its own shareholders of income not charged to the said prepayment, the income then distributed and chargeable to the said prepayment shall not be reduced by the amount of such dividends, notwithstanding Belgian law. This exemption shall not apply when the first-mentioned company has elected that its profits be charged to the individual income tax.

7. The credit referred to in paragraph 5(a) of this Article shall be given in an amount of 20 per cent (instead of 15 per cent) in the case where a person, who is a resident of Belgium, derives income by way of dividends, interest or royalties which, in accordance with the provisions of this Agreement may be taxed in Indonesia but which is exempted from taxation there under the special incentive measures designed to promote economic development in Indonesia.

## CHAPTER VI SPECIAL PROVISIONS

### Article 25 NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation of any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other Contracting State in the same circumstances are or may be subjected.

2. The term "nationals" means:



- (a) all individuals possessing the nationality of a Contracting State; and
- (b) all legal persons, partnerships and associations deriving their status as from the law in force in a Contracting State.
3. 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 Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities.
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 Contracting State are or may be subjected.
5. In this Article the term "taxation" means taxes which are the subject of this Agreement.

## **Article 26 MUTUAL AGREEMENT PROCEDURE**

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in a taxation not in accordance with this Agreement, he may, without prejudice to the remedies provided by the national laws of these States, address to the competent authority of the Contracting State of which he is a resident an application in writing stating the grounds for claiming a revision of that taxation. The said application must be presented within a period of two years from the date of the notification, or the collection at source, of the charge to tax which the resident considers not in accordance with this Agreement.
2. The competent authority referred to in paragraph 1 shall endeavour, if the objection appears to it to be justified and if it is not 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 a taxation not in accordance with this Agreement.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the application of this Agreement.
4. The competent authorities of the Contracting States shall agree on the subject of the necessary administrative measures to carry out the provisions of this Agreement and particularly in the matter of the proofs to be furnished by the residents of either Contracting State in order to benefit in the other Contracting State from the exemptions from or reductions in tax provided in this Agreement.

## **Article 27 EXCHANGE OF INFORMATION**



1. The competent authorities of the Contracting States shall exchange such information (being information which such authorities have in proper order at their disposal) as is necessary for the carrying out of this Agreement, in particular for the prevention of fraud, and for the administration of statutory provisions against legal avoidance concerning taxes covered by this Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment or collection of the taxes which are the subject of this Agreement.
2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:
  - (a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other State;
  - (b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other State;
  - (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.

## **Article 28** **ASSISTANCE IN COLLECTION**

Each of the Contracting States shall endeavour to collect on behalf of the other Contracting State such taxes imposed by that other State as will ensure that any exemption or reduced rate of tax granted under this Agreement by that other State shall not be enjoyed by persons not entitled to such benefits.

The competent authorities of the Contracting States may consult together for the purpose of giving effect to this Article.

## **Article 29** **MISCELLANEOUS**

1. As regards a company which is a resident of Belgium, the provisions of this Agreement shall not limit its taxation in accordance with the Belgian law in the event of the repurchase of its own shares or in the event of the distribution of its assets.
2. Nothing in this Agreement shall affect the fiscal privileges of diplomatic or consular officials under the general rule of international law or under the provisions of special agreements.
3. The Agreement shall not apply to international organisations, to organs or officials thereof and to persons who are members of a diplomatic or consular mission of a third State, being present in a Contracting State and not being taxed in either Contracting State as residents in respect of taxes on income and on capital.
4. The competent authorities of the Contracting States shall communicate directly with each other for the application of this Agreement.

## **CHAPTER VII** **FINAL PROVISIONS**

# Tax Treaty Belgium - Belgia

## Article 30 ENTRY INTO FORCE

1. This Agreement shall be approved by Indonesia and Belgium in accordance with their respective legal procedures, and shall enter into force on the fifteenth day after the date of exchange of notes indicating such approval.
2. This Agreement shall have effect:  
In Indonesia:  
as respects income derived during the taxable year beginning on or after the first day of January in the calendar year in which this Agreement enters into force.  
In Belgium:
  - (a) as respects all tax due at source on income credited or payable on or after the first day of January in the calendar year in which this Agreement enters into force;
  - (b) as respects all tax other than tax due at source, on income of any accounting period ending on or after the 31st day of December in the calendar year in which this Agreement enters into force.

## Article 31 TERMINATION

1. This Agreement shall remain in force indefinitely but either of the Contracting States may terminate the Agreement, through diplomatic channels, by giving to the other Contracting State, written notice of termination not later than the 30th June of any calendar year from the fifth year following that in which the Agreement entered into force. In such event the Agreement shall have effect for the last time:  
In Indonesia:  
as respects income derived during the taxable year beginning on the first day of January in the calendar year in which the notice of termination is given.  
In Belgium:
  - (a) as respects all tax due at source on income credited or payable at last on the 31st day of December in the calendar year in which the notice of termination is given;
  - (b) as respects all tax other than tax due at source, on income of any accounting period ending at last on the 30th day of December of the calendar year following that in which the notice of termination is given.

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

Done in duplicate at Brussels, on November 13th, 1973, in the English language.

FOR THE GOVERNMENT  
OF THE REPUBLIC OF INDONESIA

F.X. SEDA.

FOR THE GOVERNMENT  
OF THE KINGDOM OF BELGIUM

R. VAN ELSLANDE.

## PROTOCOL

At the moment of signing the Agreement between the Kingdom of Belgium and the Republic of Indonesia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, the undersigned have agreed that the following provisions shall form an integral part of the said Agreement.

1.  
Ad Article 7, paragraph 1  
It is understood that profits derived by an enterprise of a Contracting State within the other Contracting State from sales of goods or merchandise of the same kind as those sold, or from other business transactions of the same kind as those effected, through the permanent establishment situated therein, may be taxed in such other Contracting State if the permanent establishment had intervened in such sales or transactions.
2.  
Ad Article 8
  - (a)  
With respect to profits from shipping, Article 8 shall apply only if the ships are operated in regular lines.
  - (b)  
Article 8 shall likewise apply to the share in respect of participations in pools of any kind by an enterprise engaged in the operation of aircraft.
3.  
Ad Article 10, paragraph 3  
The term "Dividends" means also income -- even when paid in the form of interest -- which is taxable under the head of income on capital invested by the members of a company other than a company with share capital, which is a resident of Belgium.
4.  
Ad Article 24, paragraph 7  
The terms "special incentive measures designed to promote economic development in Indonesia" shall include especially the Decree No. KEP-94/MK/II/2/1971 of February 22, 1971 of the Minister of Finance of the Republic of Indonesia and any other provisions granting relief which may subsequently be made and which the competent authorities of Indonesia shall notify to the other competent authorities of Belgium.
5.  
Ad Article 25
  - (a)  
Article 25 shall not affect the provisions of the Agreement between the Republic of Indonesia and the Kingdom of Belgium on the encouragement and reciprocal protection of investments and Protocol, signed at Jakarta on January 15, 1970.
  - (b)  
Article 25, paragraph 3 shall not be construed as preventing Belgium from taxing the total amount of the profits attributable to a permanent establishment in Belgium of a company being a resident of Indonesia or of an association having its place of effective management in Indonesia at the rate of tax provided by the Belgian law, but this rate may not -- before the surcharges referred to in paragraph 3(b)(vi) of Article 2 -- exceed the maximum rate applicable to the whole or a portion of the profits of companies which are residents of Belgium.

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

Done in duplicate at Brussels, on November 13th, 1973, in the English language.

# Tax Treaty Belgium - Belgia

FOR THE GOVERNMENT  
OF THE REPUBLIC OF INDONESIA

F.X. SEDA.

FOR THE GOVERNMENT  
OF THE KINGDOM OF BELGIUM

R. VAN ELSLANDE.

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