



PRESIDEN
REPUBLIK INDONESIA

KEPUTUSAN PRESIDEN REPUBLIK INDONESIA

NOMOR 6 TAHUN 1998

TENTANG

PENGESAHAN AGREEMENT BETWEEN THE GOVERNMENT
OF THE REPUBLIC OF INDONESIA AND THE GOVERNMENT
OF THE REPUBLIC OF MAURITIUS FOR THE
AVOIDANCE OF DOUBLE TAXATION AND THE
PREVENTION OF FISCAL EVASION WITH
RESPECT TO TAXES ON INCOME

PRESIDEN REPUBLIK INDONESIA,

- Menimbang :
- a. bahwa di Jakarta, pada tanggal 10 Desember 1996 Pemerintah Republik Indonesia telah menandatangani Agreement between the Government of the Republic of Indonesia and the Government of the Republic of Mauritius for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, sebagai hasil perundingan antara Delegasi-delegasi Pemerintah Republik Indonesia dan Pemerintah Republik Mauritius;
 - b. bahwa sehubungan dengan itu, dan sesuai dengan Amanat Presiden Republik Indonesia kepada Ketua Dewan Perwakilan Rakyat Nomor 2826/HK/1960 tanggal 22 Agustus 1960 tentang Pembuatan Perjanjian-perjanjian dengan Negara Lain, dipandang perlu untuk mengesahkan Agreement tersebut dengan Keputusan Presiden;

Mengingat : Pasal 4 ayat (1) dan Pasal 11 Undang-Undang Dasar 1945;

MEMUTUSKAN: ...



PRESIDEN
REPUBLIK INDONESIA

- 2 -

MEMUTUSKAN:

Menetapkan : KEPUTUSAN PRESIDEN TENTANG PENGESAHAN AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDONESIA AND THE GOVERNMENT OF THE REPUBLIC OF MAURITIUS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME.

Pasal 1

Mengesahkan Agreement between the Government of the Republic of Indonesia and the Government of the Republic of Mauritius for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, yang telah ditandatangani Pemerintah Republik Indonesia di Jakarta, pada tanggal 10 Desember 1996 sebagai hasil perundingan antara Delegasi-delegasi Pemerintah Republik Indonesia dan Pemerintah Republik Mauritius yang salinan naskah aslinya dalam bahasa Inggris sebagaimana terlampir pada Keputusan Presiden ini.

Pasal 2

Keputusan Presiden ini mulai berlaku pada tanggal ditetapkan.

Agar ...



PRESIDEN
REPUBLIK INDONESIA

- 3 -

Agar setiap orang mengetahuinya, memerintahkan pengundangan Keputusan Presiden ini dengan penempatannya dalam Lembaran Negara Republik Indonesia.

Ditetapkan di Jakarta
pada tanggal 12 Januari 1998
PRESIDEN REPUBLIK INDONESIA

ttd

SOEHARTO

Diundangkan di Jakarta
pada tanggal 12 Januari 1998
MENTERI NEGARA SEKRETARIS NEGARA
REPUBLIK INDONESIA

ttd

MOERDIONO

LEMBARAN NEGARA REPUBLIK INDONESIA TAHUN 1998 NOMOR 14



PRESIDEN
REPUBLIK INDONESIA

AGREEMENT
BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF INDONESIA
AND
THE GOVERNMENT OF THE REPUBLIC OF MAURITIUS
FOR
THE AVOIDANCE OF DOUBLE TAXATION AND
THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

The Government of the Republic of Indonesia and the Government of the Republic of Mauritius

DESIRING to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
HAVE AGREED AS FOLLOWS:

Article 1

PERSONAL SCOPE

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

Article 2

TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or its political subdivisions, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property.



PRESIDEN
REPUBLIK INDONESIA

- 2 -

3. The existing taxes to which the Agreement shall apply are:
 - (a) in Indonesia, the income tax imposed under the Undang-undang Pajak Penghasilan 1984 (Law no. 7 of 1983 as amended), (hereinafter referred to as "Indonesian tax");
 - (b) in Mauritius,
the income tax,
(hereinafter referred to as "Mauritius tax").
4. This Agreement shall also apply to any other taxes of a substantially similar character which are imposed by either Contracting State after the date of signature of this Agreement in addition to, or in place of, the existing taxes.
5. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws, and if 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 Notes.

Article 3

GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:
 - (a) (i) the term "Indonesia" comprises the territory of the Republic of Indonesia as defined in its laws and the adjacent areas over which the Republic of Indonesia has sovereignty, sovereign rights or jurisdiction in accordance with the provisions of International Law;



PRESIDEN
REPUBLIK INDONESIA

- 3 -

(ii) the term "Mauritius" means the Republic of Mauritius and includes:

(A) all the territories and islands which, in accordance with the laws of Mauritius, constitute the State of Mauritius;

(B) the territorial sea of Mauritius; and

(C) any area outside the territorial sea of Mauritius which in accordance with international law has been or may hereafter be designated, under the laws of Mauritius, as an area, including the Continental Shelf, within which the rights of Mauritius with respect to the sea, the sea-bed and sub-soil and their natural resources may be exercised;

(b) the term "person" includes an individual, a company, and any other body of persons which is treated as an entity for tax purposes;

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

(d) 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;

(e) 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;

(f) the term "competent authority" means:

(i) in Indonesia:

the Minister of Finance or his authorized representative;

(ii) in Mauritius:

the Minister of Finance or his authorized representative;



PRESIDEN
REPUBLIK INDONESIA

- 4 -

(g) the term "national" means:

- (i) any individual possessing the nationality or citizenship of a Contracting State;
- (ii) any legal person, partnership, association or other entity deriving its status as such from the laws in force in a Contracting State.

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

Article 4

RESIDENT

1. For the purpose 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. This term does not include any person who is liable to tax 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 resident to the State with which his personal and economic relations are closer (centre of vital interests);
- (b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
- (c) if he has an habitual abode in both States or in neither of them, he shall be deemed



PRESIDEN
REPUBLIK INDONESIA

- 5 -

to be a resident of the State of which he is a national;

(d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanet establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carries 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 warehouse, in relation to a person providing storage facilities for others;
 - (g) a farm or plantation;
 - (h) a mine, an oil or gas well, aquarry or any other place of extraction or exploration of natural resources, drilling rig or working ship used for exploration or exploitation of natural resources.
3. The term "permanet establishment" likewise encompasses:
 - (a) a building site, a construction, assembly or installation project, or supervisory activities in connection therewith, but only where such site, project or activities



PRESIDEN
REPUBLIK INDONESIA

- 6 -

continue for a period of more than 6 months;

(b) the furnishing of services, including consultancy services by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating to more than 4 months within any twelve month period.

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

(a) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;

(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or 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; and

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.



PRESIDEN
REPUBLIK INDONESIA

- 7 -

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned State in respect of any activities which that person undertakes for the enterprise, if such a person:

(a) has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or

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

6. An 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 or its associated enterprises, he will 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 State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.



PRESIDEN
REPUBLIK INDONESIA

- 8 -

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 provision of paragraph 1 shall also apply to income derived from the direct use, letting or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 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 though a



PRESIDEN
REPUBLIK INDONESIA

- 9 -

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 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 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.



PRESIDEN
REPUBLIK INDONESIA

- 10 -

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. For the purpose of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
6. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of these Articles shall not be affected by the provisions of this Article.

Article 8

SHIPPING AND AIR TRANSPORT

1. Profits of an enterprise from the operation of ships or aircraft in international traffic including rental of containers and related equipment which is incidental to the operation of ships or aircraft shall be taxable only in the Contracting State of which the enterprise is a resident.
2. The provision of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

ASSOCIATED ENTERPRISES

1. Where:



PRESIDEN
REPUBLIK INDONESIA

- 11 -

- (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,
- and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.
2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are 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 the Agreement and the competent authorities of the Contracting States shall, if necessary consult each other.
3. A Contracting State shall not change the profits of an enterprise in the circumstances referred to in paragraph 2 after the expiry of the time limits provided in its tax laws.

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident



PRESIDEN
REPUBLIK INDONESIA

- 12 -

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) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds at least 20 per cent of the capital of the company paying the dividends;
 - (b) 10 per cent of the gross amount of the dividends in all other cases.

The competent authorities of the Contracting States shall settle the mode of application of these limitations by mutual agreement.

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.



PRESIDEN
REPUBLIK INDONESIA

- 13 -

5. Notwithstanding any other provisions of this Agreement where a company which is a resident of a Contracting State has a permanent establishment in the other Contracting State, the profits of the permanent establishment may be subjected to an additional tax in that other State in accordance with its law, but the additional tax so charged shall not exceed 10 per cent of the amount of such profits after deducting therefrom income tax and other on income imposed thereon in that other State.
6. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, no tax may be imposed on the beneficial owner in that other State on the dividends paid by the company except in so far as such dividends are paid to a resident of that other State 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 undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.
7. The provision of paragraph 5 of this Article shall not affect the provision contained in any production sharing contract and contracts of work (or any other similar contracts) relating to oil and gas sector or other mining sector concluded by the Government of Indonesia, its instrumentality, its relevant state oil and gas company or any other entity thereof with a person who is a resident of the other Contracting States.

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.



PRESIDEN
REPUBLIK INDONESIA

- 14 -

2. However, subject to the provisions of paragraph 3, such interest may also be taxed in the Contracting State in which it arises and according to the law of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 per cent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and derived by the Government of the other Contracting State including local authorities thereof, a political subdivision, the Central Bank or any financial institution controlled by that Government, the capital of which is wholly owned by the Government of the other Contracting State, as may be agreed upon from time to time between the competent authorities of the Contracting States, shall be exempt from tax in the first-mentioned State.
4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article. The term "interest" shall not include any item which is treated as a dividend under the provisions of Article 10 of this Agreement.
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 a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.



PRESIDEN
REPUBLIK INDONESIA

- 15 -

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by that permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a 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 Contracting State.
2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the law of that Contracting State; but, if the beneficial owner is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.



PRESIDEN
REPUBLIK INDONESIA

- 16 -

3. The term "royalties" as used in this Article means payments, whether periodical or not, and in whatever form or name or nomenclature to the extent to which they are made as consideration for:
- (a) the use of, or the right to use, any copyright, patent, design or model, plan, secret formula or process, trademark or other like property or right; or
 - (b) the use of, or the right to use, any industrial, commercial or scientific equipment; or
 - (c) the supply of scientific, technical, industrial or commercial knowledge or information; or
 - (d) the use of, or the right to use:
 - (i) motion picture films; or
 - (ii) films or video tapes or discs for use in connection with television; or
 - (iii) tapes or discs for use in connection with radio broadcasting; or
 - (e) total or partial forbearance in respect of the use or supply of any property or right referred to in this paragraph.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such cases, the provisions of Article 7 or Article 14, as the case may be, shall apply.



PRESIDEN
REPUBLIK INDONESIA

- 17 -

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, the 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 a case, the excess part of the payment shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 13

CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or together with the whole



PRESIDEN
REPUBLIK INDONESIA

- 18 -

enterprise) or of such, fixed base, may be taxed in that other State.

3. Gains derived by an enterprise of a Contracting State 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 that State.
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 a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities or he is present in that other State for a period or periods exceeding in the aggregate 183 days within any twelve month period. If he has such a fixed base or remains in that other State for the aforesaid period or periods, the income may be taxed in that other State but only so much of it as is attributable to that fixed base or is derived in that other State during the aforesaid period or periods.
2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, engineers, lawyers, dentists, architects, and accountants.

Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in



PRESIDEN
REPUBLIK INDONESIA

- 19 -

the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days within any twelve month period; and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and

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

3. Notwithstanding the 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

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

2. The remuneration which a person to whom paragraph 1 applies 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.



PRESIDEN
REPUBLIK INDONESIA

- 20 -

Article 17

ENTERTAINERS AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.
3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from activities referred to in paragraph 1 performed under a cultural agreement or arrangement between the Contracting States shall be exempt from tax in the Contracting State in which the activities are exercised if the visit to that State is wholly or substantially supported by funds of one or both of the Contracting States, a local authority or public institution thereof.

Article 18

PENSIONS AND ANNUITIES

1. Subject to the provisions of paragraph 2 of Article 19, any pension or other similar remuneration paid to a resident of one the Contracting States from a source in the other Contracting State in consideration of past employment or services in that other Contracting State and any annuity paid to such a resident from such a source shall be taxable only in that other State



PRESIDEN
REPUBLIK INDONESIA

- 21 -

2. The term annuity means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.
3. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under a public scheme which is part of the social security system of a Contracting State or a political subdivision or a local authority thereof shall be taxable only in that State.

Article 19

GOVERNMENT SERVICE

1. a. Remuneration, other than a pension, paid by, or out of funds created by, a Contracting State or a political subdivision, local authority or statutory body thereof to an individual in respect of services rendered to that State, subdivision, authority or body shall be taxable only in that State.

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

- (i) is a national of that State; or
- (ii) did not become a resident of that State solely for the purpose of rendering the services.

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



PRESIDEN
REPUBLIK INDONESIA

- 22 -

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that other State.

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

Article 20

TEACHERS AND RESEARCHERS

1. An individual who is immediately before visiting a Contracting State a resident of the other Contracting State and who, at the invitation of the Government of the firstmentioned Contracting State or of a University, college, school or other educational institution, museum, or other cultural institution in that first mentioned Contracting State under an official programme of cultural exchange, is present in that Contracting State for a period not exceeding two consecutive years solely for the purpose of teaching, giving lectures or carrying out research at such institution shall be exempt from tax in that Contracting State on his remuneration for such activity, provided that payment of such remuneration is derived by him from outside that Contracting State.
2. The provisions of this Article shall not apply to income from research if such research is undertaken not in the public interest but wholly or mainly for the private benefit of a specific person or persons.

Article 21

STUDENTS AND BUSINESS APPRENTICES

1. Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is



PRESIDEN
REPUBLIK INDONESIA

- 23 -

present in the first mentioned Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that Contracting State, provided that such payments arise from sources outside that Contracting State.

2. In respect of grants, scholarships and remuneration from employment not covered by paragraph 1, a student or business apprentice described in paragraph 1 shall, in addition, be entitled during such education or training to the same exemption, reliefs or reductions in respect of taxes available to residents of the Contracting State which he is visiting.

Article 22

OTHER INCOME

1. Items of income of a resident of a Contracting State, consisting of lottery winnings and prizes, shall be taxable only in that State except that, if such income is derived from sources within the Contracting State, it may also be taxed in that other State.
2. Subject to the provisions of paragraph 3 of this Article, items of income of a resident of a Contracting State, wherever arising, not dealt in paragraph 1 and in the foregoing Articles in respect of which he is subject to tax in that State, shall be taxable only in that State.
3. The provisions of paragraph 2 shall not apply to income if the person deriving the 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 of property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such a case the provisions of Article 7 or Article 14, as the case may be, shall apply.



PRESIDEN
REPUBLIK INDONESIA

- 24 -

Article 23

ELIMINATION OF DOUBLE TAXATION

Double taxation shall be eliminated as follows:

1. In the case of Indonesia:

- (a) Where a resident of Indonesia derives income from Mauritius the amount of tax on that income payable in Mauritius in accordance with the provisions of this Agreement may be credited against the Indonesian tax imposed on that resident.
- (b) Where a company which is a resident of Mauritius pays a dividend to a company which is a resident of Indonesia and which controls, directly or indirectly, at least 20 per cent of the capital of the company paying the dividend, the credit shall take into account (in addition to any Mauritius tax for which credit may be allowed under the provisions of subparagraph (a) of this paragraph) the Mauritius tax payable by the first-mentioned company in respect of the profits out of which such dividend is paid.

Provided that any credit allowed under subparagraphs (a) and (b) shall not exceed the Mauritius tax (as computed before allowing any such credit), which is appropriate to the profits or income derived from sources within Indonesia.

2. In the case of Mauritius:

- (a) Where a resident of Mauritius derives income from Indonesia the amount of tax on that income payable in Indonesia in accordance with the provisions of this Agreement may be credited against the Mauritius tax imposed on that resident.



PRESIDEN
REPUBLIK INDONESIA

- 25 -

(b) Where a company which is a resident of Indonesia pays a dividend to a company which is a resident of Mauritius and which controls, directly or indirectly, at least 20 per cent of the capital of the company paying the dividend, the credit shall take into account (in addition to any Indonesia tax for which credit may be allowed under the provisions of subparagraph (a) of this paragraph) the Indonesian tax payable by the first-mentioned company in respect of the profits out of which such dividend is paid.

Provided that any credit allowed under subparagraphs (a) and (b) shall not exceed the Indonesian tax (as computed before allowing any such credit), which is appropriate to the profits or income derived from sources within Mauritius.

3. For the purposes of allowance as a credit the tax payable in Indonesia or Mauritius as the context requires, shall be deemed to include the tax which is otherwise payable in either of the two Contracting States but has been reduced or waived by either State in order to promote its economic development.

Article 24

NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and



PRESIDEN
REPUBLIK INDONESIA

- 26 -

reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is 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.
4. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12 apply, interest, royalty and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.
5. 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 action of one or both of the Contracting States result or will result for him in taxation not in accordance with this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within two years from the first notification of the action resulting in taxation not in accordance with the provisions of this Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified



PRESIDEN
REPUBLIK INDONESIA

- 27 -

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 which is 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 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 State shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by this Agreement insofar as the taxation thereunder is not contrary to the Agreement, in particular for the prevention of fraud or evasion of such taxes. The exchange of information is not restricted by Article 1. Any information so exchanged shall be treated as secret in the manner as information obtained under the domestic law of that State and may be disclosed only to persons or authorities (including courts or administrative bodies) involved in the assessment or collection or the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by this Agreement. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. The competent authorities shall, through consultation, develop appropriate conditions,



PRESIDEN
REPUBLIK INDONESIA

- 28 -

methods and techniques concerning the matters in respect of which such exchanges of information shall be made, including. Where appropriate, exchanges of information regarding tax avoidance.

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 Contracting State;

(b) to supply information which is not obtainable under the laws or in the normal course if the administration of that or of the other Contracting State;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 27

DIPLOMATIC AGENTS AND CONSULAR OFFICERS

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

Article 28

ENTRY INTO FORCE

1. This Agreement shall enter into force on the later of the dates on which respective Governments may notify each other in writing that the formalities constitutionally required in their respective States for bringing the Agreement into force have been complied with.



PRESIDEN
REPUBLIK INDONESIA

- 29 -

This Agreement shall have effect:

(a) In Indonesia:

- (i) in respect of tax withheld at source to income derived on or after 1 January in the year next following that in which the Agreement enters into force; and
- (ii) in respect of other taxes on income, for taxable years beginning on or after 1 January in the year next following that in which the Agreement enters into force.

(b) In Mauritius:

in respect of taxes on income for any income year beginning on or after the first day of July next following the date upon which this Agreement enters into force.

Article 29

TERMINATION

1. This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving written notice of termination on or before the thirtieth day of June of any calendar year following after the period of 5 years from the year in which the Agreement enters into force.

In such a case, the Agreement shall cease to have effect:

(a) In Indonesia:



PRESIDEN
REPUBLIK INDONESIA

- 30 -

(i) in respect of tax withheld at source to income derived on or after 1 January in the year next following that in which the notice of termination is given; and

(ii) in respect of other on income for taxable years beginning on or after 1.... the notice of termination is to given.

(b) In Mauritius:

in respect of taxes on income for any income year beginning on or after the first day of July next following the calendar year in which such notice is given.

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

DONE in duplicate at Jakarta this day of 3th Desember 1996 in the English language.

For the Government of the
Republic of Indonesia

For the Government of the
Republic of Mauritius