

**AGREEMENT BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE
AND
THE GOVERNMENT OF THE REPUBLIC OF INDONESIA
FOR THE ELIMINATION OF DOUBLE TAXATION
WITH RESPECT TO TAXES ON INCOME
AND THE PREVENTION OF TAX EVASION AND AVOIDANCE**

Date of Conclusion: 4 February 2020

Entry into Force: 23 July 2021

Effective Date: 1 January 2022

NOTE

There was an earlier Agreement signed between the Government of the Republic of Singapore and the Government of the Republic of Indonesia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. The text of this Agreement which was signed on 8 May 1990 and effective from 1 January 1992 is shown in Annex A.

Singapore and Indonesia both signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (commonly known as the “Multilateral Instrument” or in short, the “MLI”) on 7 June 2017. Singapore and Indonesia ratified the MLI on 21 December 2018 and 28 April 2020 respectively.

More information on the MLI is available at <https://www.iras.gov.sg/irashome/Quick-Links/International-Tax/Multilateral-Instrument/>.

The Income Tax (Singapore – Indonesia) (Avoidance of Double Taxation Agreement) (Modifications to Implement Multilateral Instrument) Order 2020, which took effect on 26 December 2020, implements the applicable provisions of the MLI to the articles of the earlier Agreement which was signed on 8 May 1990. For informational purposes, details of the amendments to this Agreement are shown in Annex B.

The Government of the Republic of Singapore and the Government of the Republic of Indonesia,

Intending to conclude an Agreement for the elimination of double taxation with respect to taxes on income without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third jurisdictions),

Have agreed as follows:

ARTICLE 1 – PERSONS COVERED

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

ARTICLE 2 – TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which the Agreement shall apply are:
 - (a) in Indonesia:
the income tax

(hereinafter referred to as "Indonesian tax");
 - (b) in Singapore:
the income tax

(hereinafter referred to as "Singapore tax").
4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their taxation laws.

ARTICLE 3 – GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:
 - (a) the term “Indonesia” means the Republic of Indonesia and, when used in a geographical sense, means the land territories, territorial sea, archipelagic waters, internal waters, including sea-bed and subsoil thereof, and airspace over such territories, as well as continental shelf and exclusive economic zone, over which Indonesia has sovereignty, sovereign rights or jurisdiction, as defined in its laws, and in accordance with the United Nations Convention on the Law of the Sea, done at Montego Bay, 10 December 1982;
 - (b) the term "Singapore" means the Republic of Singapore and, when used in a geographical sense, includes its land territory, internal waters and territorial sea, as well as any maritime area situated beyond the territorial sea which has been or might in the future be designated under its national law, in accordance with international law, as an area within which Singapore may exercise sovereign rights or jurisdiction with regards to the sea, the sea-bed, the subsoil and the natural resources;
 - (c) the terms "a Contracting State" and "the other Contracting State" mean Indonesia or Singapore as the context requires;
 - (d) the term “person” includes an individual, a company and any other body of persons;
 - (e) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - (f) 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;
 - (g) the term "national", in relation to a Contracting State, means:
 - (i) any individual possessing the nationality or citizenship of that Contracting State; and
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State;
 - (h) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
 - (i) the term “competent authority” means:
 - (i) in the case of Indonesia, the Minister of Finance or his authorised representative;
 - (ii) in the case of Singapore, the Minister for Finance or his authorised representative.

2. As regards the application of the Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

ARTICLE 4 – FISCAL DOMICILE

1. For the purposes of this Agreement, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of incorporation, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision, local authority or statutory body thereof.

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 only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);
- (b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only 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 to be a resident only of the State of which he is a national;
- (d) in any other case, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

ARTICLE 5 – PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" 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 or gas well, a quarry or other place of extraction of natural resources;
 - (h) a building site or construction, installation or assembly project which exists for more than 183 days. It is understood that a time limit of 3 months shall apply to an assembly or installation project performed by a person other than the main contractor;
 - (i) the furnishing of services, including consultancy services, by an enterprise through an employee or other person (other than an agent of an independent status within the meaning of paragraph 7) where the activities continue within a Contracting State for a period or periods aggregating more than 90 days within a 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. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on supervisory activities in that other State for more than 6 months in connection with a construction, installation or assembly project which is being undertaken in that other State.

5. A person acting in one of the Contracting States for or on behalf of an enterprise of the other Contracting State - other than an agent of an independent status to whom paragraph 7 of this Article applies - shall be deemed to be a permanent establishment in the first-mentioned State, if -

- (a) he has, and habitually exercises, in the first-mentioned State, a general authority to conclude contracts for or on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or
- (b) he habitually maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly delivers goods or merchandise for or on behalf of the enterprise.

6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.

7. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, 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 the enterprise, he shall not be considered an agent of an independent status within the meaning of this paragraph.

8. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself make either company a permanent establishment of the other.

ARTICLE 6 – INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term “immovable property” shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

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

ARTICLE 7 – BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that 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 determining the profits of a permanent establishment, there shall be allowed as deductions expenses including executive and general administrative expenses, which would be deductible if the permanent establishment were an independent enterprise, insofar as they are reasonably allocable to the permanent establishment, whether incurred in the State in which the permanent establishment is situated or elsewhere.
4. If the information available to the competent authority is inadequate to determine the profits to be attributed to the permanent establishment of an enterprise, nothing in this Article shall affect the application of any law of that State relating to the determination of the tax liability of a person by the exercise of a discretion or the making of an estimate by the competent authority, provided that the law shall be applied, so far as the information available to the competent authority permits, in accordance with the principle of this Article.
5. 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.
6. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.
7. 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.

ARTICLE 8 – SHIPPING AND AIR TRANSPORT

1. Income derived by an enterprise of a Contracting State from the operation of aircraft in international traffic shall be taxable only in that Contracting State.
2. Income derived by an enterprise of a Contracting State from the operation of ships in international traffic may be taxed in the other Contracting State, but the tax imposed in that other State shall be reduced by an amount equal to 50% thereof.
3. The provisions of paragraphs 1 and 2 shall also apply to the share of the income from the operation of ships or aircraft derived by an enterprise of a Contracting State through participation in a pool, a joint business or an international operating agency.

ARTICLE 9 – ASSOCIATED ENTERPRISES

1. Where

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

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State – and taxes accordingly – profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

3. The provisions of paragraph 2 shall not apply where judicial or other legal proceedings have resulted in a final ruling that by actions giving rise to an adjustment of profits under paragraph 1, one of the enterprises concerned is liable to penalty with respect to fraud, gross negligence or wilful default.

ARTICLE 10 – DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may 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 if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

- (a) 10% of the gross amount of the dividends if the recipient is a company which owns directly at least 25% of the capital of the company paying the dividends;
- (b) 15% of the gross amount of the dividends in all other cases.

The provisions of this paragraph shall not affect the taxation of the company on 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, mining shares, founders’ shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company’s undistributed profits to a tax on the company’s undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

6. Notwithstanding any other provisions of this Agreement, where a company which is a resident of a Contracting State has a permanent establishment in the other Contracting State, the profits of the permanent establishment may be subjected to an additional tax in that other State in accordance with its law, but the additional tax so charged shall not exceed 10 per cent of the amount of such profits after deducting therefrom income tax and other taxes on income imposed thereon in that other State.

7. The provisions of paragraph 6 of this Article shall not affect the provision contained in any production sharing contracts relating to oil and gas, and contract of works for other mining sectors, concluded by a Contracting State or its relevant state oil and gas company or any other entity thereof with a person who is a resident of the other Contracting State.

ARTICLE 11 – INTEREST

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

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, the Government of a Contracting State shall be exempt from tax in the other Contracting State in respect of interest derived from that other State.

4. For the purposes of paragraph 3, the term "Government":

(a) in the case of Indonesia, means the Government of the Republic of Indonesia and shall include:

- (i) a local authority;
- (ii) Bank Indonesia (The Central Bank of Indonesia) and its wholly owned (direct or indirect) subsidiaries;
- (iii) the Indonesia Eximbank;
- (iv) the Indonesia Social Security Agency for Health;
- (v) the Indonesia Social Security Agency for Manpower;
- (vi) any other statutory body;
- (vii) any entity, including special-purpose investment funds or arrangements, wholly owned (directly or indirectly) by the Government of Indonesia, which is set up to carry out governmental programmes, as may be agreed between the competent authorities of the Contracting States; and
- (viii) any public body or institution as may be agreed between the competent authorities of the Contracting States.

(b) in the case of Singapore, means the Government of Singapore and shall include also:

- (i) the Monetary Authority of Singapore and its wholly-owned (direct or indirect) subsidiaries;
- (ii) a statutory body;
- (iii) entities, including special-purpose investment funds or arrangements, wholly owned (directly or indirectly) by the Government of Singapore, which are set up to invest and manage the assets of the Government of Singapore, and where the interest paid relates to such assets. For avoidance of doubt, this refers to GIC Private Limited, GIC (Realty) Private Limited, GIC (Ventures) Pte. Ltd., Eurovest Pte. Ltd. and their

wholly-owned (direct or indirect) subsidiaries. For any other entities wholly owned (directly or indirectly) by the Government of Singapore and which are set up to invest and manage the assets of the Government of Singapore, it may be agreed from time to time between the competent authorities of the Contracting States; and

- (iv) any public body or institution as may be agreed between the competent authorities of the Contracting States.

5. The term “interest” as used in this Article means income from debt-claims of every kind, whether or not secured by 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.

6. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

7. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

8. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 12 – ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed:
 - (a) in the case of royalties as defined in paragraph 3 subparagraph (a), 10% of the gross amount of such royalties; and
 - (b) in the case of royalties as defined in paragraph 3 subparagraph (b), 8% of the gross amount of such royalties.
3. The term “royalties” as used in this Article means payments of any kind received as a consideration:
 - (a) for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process; or
 - (b) for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
6. Where by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 13 – CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.
3. Gains derived by a resident 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 derived by a resident of a Contracting State from the alienation of shares, other than shares traded on an approved stock exchange, deriving more than 50 per cent of their value directly or indirectly from immovable property, as defined in Article 6, situated in the other Contracting State may be taxed in that other State if the alienator owned at least 50 per cent of the total issued shares of the company whose shares are alienated. However, this paragraph shall not apply to gains derived from the alienation of shares deriving value from immovable property in which the company carries on its business and to gains derived from the alienation of shares alienated or exchanged in the framework of a reorganisation of a company, a merger, a scission or a similar operation.
5. Gains from the alienation of shares in a company which is a resident of Indonesia and traded on the Indonesia Stock Exchange may be taxed in Indonesia in accordance with the Minister of Finance Decree No. 282/KMK.04/1997 (The Implementation of Withholding Tax on Income Derived from the Alienation of Shares on Stock Exchange), as may be amended from time to time.
6. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2, 3, 4 and 5 shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 14 – INDEPENDENT PERSONAL SERVICES

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

- (a) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or
- (b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 90 days in any period commencing or ending in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.

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

ARTICLE 15 – DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any 12-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 any employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that State.

ARTICLE 16 – DIRECTORS’ FEES

Fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors, management board, the supervisory board, or of a similar body, of a company which is a resident of the other Contracting State, may be taxed in that other State.

ARTICLE 17 – ENTERTAINERS AND SPORTSPERSONS

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 sportsperson, from that resident's 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 sportsperson acting as such accrues not to the entertainer or sportsperson but to another person, that income may, notwithstanding the provisions of Articles 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities performed in a Contracting State by entertainers or sportspersons if the visit to that State is wholly or mainly supported by public funds of one or both of the Contracting States or political subdivisions, local authorities or statutory bodies thereof. In such a case, the income is taxable only in the Contracting State in which the entertainer or the sportsperson is a resident.

ARTICLE 18 – PENSIONS

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration arising in a Contracting State and paid to a resident of the other Contracting State in consideration of past employment may be taxable in the first-mentioned State.
2. Notwithstanding the provision 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) Salaries, wages and other similar remuneration paid by a Contracting State or a political subdivision, a local authority or a statutory body thereof to an individual in respect of services rendered to that State or subdivision, authority or body shall be taxable only in that State.

(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that 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) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or a political subdivision, or a local authority or a statutory body thereof to an individual in respect of services rendered to that State or subdivision or authority or body shall be taxable only in that State.

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

3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision, a local authority or a statutory body thereof.

ARTICLE 20 – STUDENTS

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

ARTICLE 21 – TEACHERS AND RESEARCHERS

1. An individual, who is a resident of a Contracting State immediately before making a visit to the other Contracting State and who, at the invitation of the Government of the other Contracting State, visits that other Contracting State for the first time for a period not exceeding two years solely for the purpose of teaching or research or both at an institution, shall be exempt from tax in that other Contracting State on any remuneration received for such teaching or research which is subject to tax in the first-mentioned Contracting State.

2. This Article shall not apply to income from teaching or research if such teaching or research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

ARTICLE 22 – OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement and arising in the other Contracting State may also be taxed in that other State.

ARTICLE 23 – ELIMINATION OF DOUBLE TAXATION

1. In Indonesia, double taxation shall be avoided as follows:

- (a) Where a resident of Indonesia derives income which, in accordance with the provisions of this Agreement, may be taxed in Singapore, Indonesia shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Singapore. Such deduction in either case shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable, as the case may be, to the income which may be taxed in Singapore.
- (b) Where in accordance with any provision of the Agreement, income derived by a resident of Indonesia is exempt from tax in Indonesia, Indonesia may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

2. In Singapore, double taxation shall be avoided as follows:

Where a resident of Singapore derives income from Indonesia which, in accordance with the provisions of this Agreement, may be taxed in Indonesia, Singapore shall, subject to its laws regarding the allowance as a credit against Singapore tax of tax payable in any country other than Singapore, allow the Indonesian tax paid, whether directly or by deduction, as a credit against the Singapore tax payable on the income of that resident. Where such income is a dividend paid by a company which is a resident of Indonesia to a resident of Singapore which is a company owning directly or indirectly not less than 10 per cent of the share capital of the first-mentioned company, the credit shall take into account the Indonesian tax paid by that company on the portion of its profits out of which the dividend is paid.

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, in particular with respect to residence, are or may be subjected.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
3. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.
4. Where a Contracting State grants tax incentives to its nationals designed to promote economic or social development in accordance with its national policy and criteria, it shall not be construed as discrimination under this Article.
5. The provisions of this Article shall apply only to taxes covered by Article 2 of this Agreement.

ARTICLE 25 – MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.
4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

ARTICLE 26 – EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. 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. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

ARTICLE 27 – MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

ARTICLE 28 – ENTITLEMENT TO BENEFITS

Notwithstanding the other provisions of this Agreement, a benefit under this Agreement shall not be granted in respect of an item of income if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Agreement.

ARTICLE 29 – ENTRY INTO FORCE

1. Each Contracting State shall notify the other in writing through diplomatic channels of the completion of the procedures required by its law for the bringing into force of this Agreement.

2. The Agreement shall enter into force on the date of the later of these notifications and its provisions shall have effect:

(a) in Indonesia:

- (i) in respect of taxes withheld at source: for amounts paid or credited on or after 1 January in the calendar year following the year in which the Agreement enters into force;
- (ii) in respect of other taxes: for any tax year commencing on or after 1 January in the calendar year following the year in which the Agreement enters into force; and
- (iii) in respect of Article 26 (Exchange of Information), for requests made on or after the date of entry into force.

(b) in Singapore:

- (i) with regard to taxes withheld at source, in respect of amounts paid, deemed to be paid or liable to be paid (whichever is the earliest) on or after 1 January of the calendar year following the year in which the Agreement enters into force;
- (ii) with regard to taxes chargeable (other than taxes withheld at source), in respect of income for any year of assessment beginning on or after 1 January of the second calendar year following the year in which the Agreement enters into force; and
- (iii) in respect of Article 26 (Exchange of Information), for requests made on or after the date of entry into force.

3. Upon its entry into force, this Agreement substitutes and supersedes the Agreement between the Republic of Indonesia and the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, with Protocol, done at Singapore on 8 May 1990, and therefore the Agreement shall cease to have effect for all cases covered by this Agreement as from the date on which the provisions of this Agreement commence to have effect. With this Agreement, the understanding on paragraphs (b) and (c) of the Exchange of Notes dated 8 May 1990 shall remain in force for both Contracting States.

ARTICLE 30 – TERMINATION

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year after the expiration of a period of five years from the date of its entry into force. In such event, the Agreement shall cease to have effect:

- (a) in Indonesia:
 - (i) in respect of taxes withheld at source: for amounts paid or credited on or after 1 January in the calendar year following the year in which the notice is given;
 - (ii) in respect of other taxes: for any tax year commencing on or after 1 January in the calendar year following the year in which the notice is given; and
 - (iii) in all other cases, including requests made under Article 26 (Exchange of Information) after the end of that calendar year in which the notice is given.
- (b) in Singapore:
 - (i) with regard to taxes withheld at source, in respect of amounts paid, deemed to be paid or liable to be paid (whichever is the earliest) after the end of that calendar year in which the notice is given;
 - (ii) with regard to taxes chargeable (other than taxes withheld at source), in respect of income for any year of assessment beginning on or after 1 January of the second calendar year following that calendar year in which the notice is given; and
 - (iii) in all other cases, including requests made under Article 26 (Exchange of Information) after the end of that calendar year in which the notice is given.

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

DONE in duplicate at Indonesia on this 4th day of February 2020 in the English and the Indonesian languages, both texts being equally authentic, but in the case of divergence of interpretation the English text shall prevail.

FOR THE GOVERNMENT OF THE
REPUBLIC OF SINGAPORE

FOR THE GOVERNMENT OF THE
REPUBLIC OF INDONESIA

INDRANEE RAJAH
SECOND MINISTER FOR FINANCE

SRI MULYANI INDRAWATI
MINISTER OF FINANCE

ANNEX A

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

The Government of the Republic of Singapore and the Government of the Republic of Indonesia,

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 each Contracting State, 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 and taxes on the total amount of wages or salaries paid by enterprises.
3. The existing taxes to which this Agreement shall apply are:
 - (a) in Singapore:
the income tax

(hereinafter referred to as "Singapore tax");
 - (b) in Indonesia:

the income tax (pajak penghasilan), and, to the extent provided in such income tax, the company tax (pajak perseroan) and the tax on interest, dividends and royalties (pajak atas bunga, dividen dan royalty)

(hereinafter referred to as "Indonesian tax").

4. This Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant 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.

ARTICLE 3 – GENERAL DEFINITIONS

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

- (a)
 - (i) the term "Singapore" comprises the territory of the Republic of Singapore as defined in its laws and the adjacent areas over which the Republic of Singapore has sovereign rights or jurisdiction in accordance with the provisions of the United Nations Convention on the Law of the Sea, 1982;
 - (ii) the term "Indonesia" comprises the territory of the Republic of Indonesia as defined in its laws and the adjacent areas over which the Republic of Indonesia has sovereign rights or jurisdiction in accordance with the provisions of the United Nations Convention on the Law of the Sea, 1982;
- (b) the terms "a Contracting State" and "the other Contracting State" mean Indonesia or Singapore as the context requires;
- (c) the term "tax" means Indonesian tax or Singapore tax as the context requires;
- (d) the term "person" includes an individual, a company and any other body of persons which is treated as an entity for tax purposes;
- (e) the term "company" means any body corporate or any other entity which is treated as a body corporate for tax purposes;
- (f) 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;
- (g) the term "national" means:
 - (i) any individual possessing the nationality or citizenship of a Contracting State;
 - (ii) any legal person, partnership, association and any other entity deriving their status as such from the laws in force in a Contracting State;

- (h) the term "international traffic" means any transport by a ship or aircraft which is operated by an enterprise of one of the Contracting States, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (i) the term "competent authority" means:
 - (aa) in the case of Indonesia, the Minister of Finance or his authorised representative;
 - (bb) in the case of Singapore, the Minister for Finance or his authorised representative.

2. As regards the application of this Agreement by a Contracting State, any term not defined in this Agreement 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 this Agreement.

ARTICLE 4 – FISCAL DOMICILE

1. For the purposes of this Agreement, the term "a resident of a Contracting State" means any person who is resident in a Contracting State for tax purposes of that Contracting State. This term shall not include a permanent establishment of a foreign enterprise which is treated as a resident for tax purposes.

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 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 this question by mutual agreement.

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

ARTICLE 5 – PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of 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 or gas well, a quarry or other place of extraction of natural resources;
 - (h) a building site or construction, installation or assembly project which exists for more than 183 days;
 - (i) the furnishing of services, including consultancy services, by an enterprise through an employee or other person (other than an agent of an independent status within the meaning of paragraph 7) where the activities continue within a Contracting State for a period or periods aggregating more than 90 days within a 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. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on supervisory activities in that other State for more than 6 months in connection with a construction, installation or assembly project which is being undertaken in that other State.
5. A person acting in one of the Contracting States for or on behalf of an enterprise of the other Contracting State - other than an agent of an independent status to whom paragraph 6 of this Article applies - shall be deemed to be a permanent establishment in the first-mentioned State, if -

- (a) he has, and habitually exercises, in the first-mentioned State a general authority to conclude contracts for or on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or
- (b) he habitually maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly delivers goods or merchandise for or on behalf of the enterprise.

6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.

7. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, 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 the enterprise, he shall not be considered an agent of an independent status within the meaning of this paragraph.

8. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself make either company a permanent establishment of the other.

ARTICLE 6 – INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property situated in the other Contracting State may be taxed in that other State.

2. For the purposes of this Agreement, 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, oil or gas wells, quarries and other places or extraction of natural resources including timber or other forest produce. Ships, boats and aircraft shall not be regarded as immovable property.

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

4. The provisions of paragraphs 1 and 3 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 State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that 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 determining the profits of a permanent establishment, there shall be allowed as deductions expenses including executive and general administrative expenses, which would be deductible if the permanent establishment were an independent enterprise, insofar as they are reasonably allocable to the permanent establishment, whether incurred in the State in which the permanent establishment is situated or elsewhere.
4. If the information available to the competent authority is inadequate to determine the profits to be attributed to the permanent establishment of an enterprise, nothing in this Article shall affect the application of any law of that State relating to the determination of the tax liability of a person by the exercise of a discretion or the making of an estimate by the competent authority, provided that the law shall be applied, so far as the information available to the competent authority permits, in accordance with the principle of this Article.
5. 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.
6. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.
7. 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.

ARTICLE 8 – SHIPPING AND AIR TRANSPORT

1. Income derived by an enterprise of a Contracting State from the operation of aircraft in international traffic shall be taxable only in that Contracting State.
2. Income derived by an enterprise of a Contracting State from the operation of ships in international traffic may be taxed in the other Contracting State, but the tax imposed in that other State shall be reduced by an amount equal to 50% thereof.
3. The provisions of paragraphs 1 and 2 shall also apply to the share of the income from the operation of ships or aircraft derived by an enterprise of a Contracting State through participation in a pool, a joint business or an international operating agency.

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, any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

ARTICLE 10 – DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such 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 if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

- (a) 10% of the gross amount of the dividends if the recipient is a company which owns directly at least 25% of the capital of the company paying the dividends;
- (b) 15% of the gross amount of the dividends in all other cases.

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

The provisions of this paragraph shall not affect the taxation of the company on the profits out of which the dividends are paid.

3. Notwithstanding the provisions of paragraph 2 of this Article as long as Singapore does not impose a tax on dividends in addition to the tax chargeable on the profits or income of a company, dividends paid by a company which is a resident of Singapore to a resident of Indonesia shall be exempt from any tax in Singapore which may be chargeable on dividends in addition to the tax chargeable on the profits or income of the company. However, when Singapore imposes a tax on dividends in addition to the tax chargeable on the profits or income of a company, the rate as prescribed under the provisions of paragraph 2 of this Article shall apply.

4. 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 subject 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.

5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has 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.

6. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company to persons who are not residents of that other State, nor subject the company's undistributed profits to a tax on undistributed profits even if the dividends paid or undistributed profits consist wholly or partly of profits or income arising in such other State.

7. Dividend shall be deemed to arise:

(a) in Singapore:

if it is paid by a company resident in Singapore; or

(b) in Indonesia:

if it is paid by a company resident in Indonesia.

ARTICLE 11 – INTEREST

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

2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 10% of the gross amount.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State, if the interest is paid in respect of:

(a) a bond, debenture or other similar obligation of the government of the first-mentioned State or a political subdivision or local authority thereof; or

(b) a loan made, guaranteed or insured, or a credit extended, guaranteed or insured by the Monetary Authority of Singapore, or the "Bank Indonesia" (The Central Bank of Indonesia), or any other lending institution, as may be specified and agreed in letters exchanged between the competent authorities of the Contracting States.

4. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of the limitations prescribed in the preceding paragraphs.

5. Notwithstanding the provisions of paragraphs 2 and 3, the Government of a Contracting State shall be exempt from tax in the other Contracting State in respect of interest derived from that other State.

6. For the purposes of paragraph 5, the term "Government":
- (a) in the case of Singapore means the Government of Singapore and shall include:
 - (i) the Monetary Authority of Singapore and the Board of Commissioners of Currency;
 - (ii) the Government of Singapore Investment Corporation Pte Ltd;
 - (iii)
 - (aa) Port of Singapore Authority;
 - (bb) Public Utilities Board;
 - (cc) Telecommunication Authority of Singapore; and
 - (iv) any statutory body, public body or institution as may be agreed between the competent authorities of the Contracting States;
 - (b) in the case of Indonesia means the Government of the Republic of Indonesia and shall include:
 - (i) a local authority;
 - (ii) Bank Indonesia (The Central Bank of Indonesia);
 - (iii) any statutory body, public body or institution as may be agreed between the competent authorities of the Contracting States.

7. 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.

8. The provisions of paragraphs 1, 2 and 3 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, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 shall apply.

9. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, a local authority, a statutory body 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 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 State in which the permanent establishment is situated.

10. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 12 – ROYALTIES

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

2. However, such royalties may be taxed in the Contracting State in which they arise, and according to the law of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 15% of the gross amount of the royalties.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

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

4. The provisions of paragraphs 1 and 2 of this Article 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, a statutory body 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 liability to pay the royalties was incurred, 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. The provisions of paragraphs 1, 2 and 5 of this Article shall likewise apply to proceeds arising from the alienation of any copyright of scientific work, any patent, trade mark, design or model, plan or secret formula or process.

7. Where, owing to a special relationship between the payer and the beneficial owner 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 beneficial owner 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 laws of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 13 – INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he is present in the other Contracting State for a period or periods exceeding in the aggregate 90 days in any twelve-month period. If he 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 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, lawyers, engineers, architects, dentists and accountants.

ARTICLE 14 – DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 15, 17, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned; and
- (b) the remuneration is paid by, or on behalf of, an employer who is a resident of the first-mentioned State; and
- (c) the remuneration is not borne by a permanent establishment which the employer has in the other State.

3. Notwithstanding the provisions of paragraphs 1 and 2, remuneration derived in respect of any 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 15 – DIRECTORS' FEES

1. Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors 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 14.

ARTICLE 16 – ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 13 and 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

Such income shall, however, be exempt from tax in that other State if such activities are supported, wholly or substantially, from the public funds of the Government of either Contracting State or a local authority or a statutory body thereof.

2. Where income in respect of personal activities exercised in a Contracting State by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 13 and 14 be taxed in that State.

Such income shall, however, be exempt from tax in that State if such activities are supported, wholly or substantially, from the public funds of the Government of either Contracting State or a local authority or a statutory body thereof.

ARTICLE 17 – PENSIONS

Subject to the provisions of Article 18, pensions and other similar remuneration arising in a Contracting State and paid to a resident of the other Contracting State in consideration of past employment may be taxed in the first-mentioned State.

ARTICLE 18 – GOVERNMENT SERVICE

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

3. The provisions of Articles 14, 15 and 17 shall apply to remuneration and 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 or a statutory body thereof.

ARTICLE 19 – TEACHERS AND RESEARCHERS

1. An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State, and who, at the invitation of any university, college, school or other similar educational institution, visits that other State for a period not exceeding two years solely for the purpose of teaching or research or both at such educational institution shall be exempt from tax in that other State on any remuneration for such teaching or research.

2. This Article shall not apply to income from research if such research is undertaken primarily for the private benefit of a specific person or persons.

ARTICLE 20 – STUDENTS AND TRAINEES

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 State solely:

- (a) as a student, at a recognized university, college, school or other similar recognized educational institution in that other State;
- (b) as a business or technical apprentice; or
- (c) a recipient of a grant, allowance or award for the primary purpose of study, research or training from the Government of either State or from a scientific, educational, religious or charitable organization or under a technical assistance programme entered into by the Government of either State;

shall be exempt from tax in that other State on:

- (a) all remittances from abroad for the purposes of his maintenance, education, study, research or training;
- (b) the amount of such grant, allowance or award; and
- (c) any remuneration not exceeding United States Dollars two thousand two hundred per annum in respect of services in that other State provided the services are performed in connection with his study, research or training or are necessary for the purposes of his maintenance.

ARTICLE 21 – INCOME NOT EXPRESSLY MENTIONED

The laws in force in each Contracting State shall continue to govern the taxation of income in the respective Contracting States except where express provision to the contrary has been made in this Agreement.

ARTICLE 22 – LIMITATION OF RELIEF

Where this agreement provides (with or without other conditions) that income from sources in a Contracting State shall be exempt from tax, or taxed at a reduced rate in that State and under the laws in force in the other Contracting State the said income is subject to tax by reference to the amount thereof which is remitted to or received in that other State and not by reference to the full amount thereof, then the exemption or reduction of tax to be allowed

under this Agreement in the first-mentioned State shall apply only to so much of the income as is remitted to or received in that other State.

ARTICLE 23 – ELIMINATION OF DOUBLE TAXATION

1. Subject to the provisions of the laws of Indonesia regarding allowance as a credit against Indonesian tax of tax payable in a territory outside Indonesia (which shall not affect the general principle hereof), tax payable under the laws of Singapore and in accordance with this Agreement, whether directly or by deduction, on profits or income from sources within Singapore shall be allowed as a credit against any Indonesian tax computed by reference to the same profits or income by reference to which the Singapore tax is computed. The credit shall not, however, exceed that part of the Indonesian tax, as computed before the credit is given, which is appropriate to such item of income.

2. Subject to the provisions of the laws of Singapore regarding allowance as a credit against Singapore tax of tax payable in a territory outside Singapore (which shall not affect the general principle hereof), tax payable under the laws of Indonesia and in accordance with this Agreement, whether directly or by deduction, on profits or income from sources within Indonesia shall be allowed as a credit against any Singapore tax computed by reference to the same profits or income by reference to which the Indonesian tax is computed. The credit shall not, however, exceed that part of the Singapore tax, as computed before the credit is given, which is appropriate to such item of income.

ARTICLE 24 – NON-DISCRIMINATION

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

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities in the same circumstances and under the same conditions.

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 the first-mentioned State are or may be subjected in the same circumstances and under the same conditions.

4. Nothing contained in paragraphs 1, 2 and 3 of this Article shall be construed as -

- (a) obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions which it grants to its own residents;
- (b) affecting any provisions of the tax laws of the respective Contracting States regarding the imposition of tax on non-resident persons as such;

- (c) obliging a Contracting State to grant to nationals of the other Contracting State those personal allowances, reliefs and reductions for tax purposes which it grants to its own citizens who are not resident in that State or to such other persons as may be specified in the taxation laws of that State; and
 - (d) affecting any provisions of the tax laws of the respective Contracting States regarding any tax concessions granted to persons fulfilling specified conditions.
5. In this Article the term "taxation" means taxes which are the subject of this Agreement.

ARTICLE 25 – 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 taxation not in accordance with this Agreement, he may, notwithstanding the remedies provided by the national laws of those States, present the case to the competent authority of the Contracting State of which he is a resident. The case must be presented within three years from the date of the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at 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. If an agreement is reached, it shall be implemented notwithstanding any time limits prescribed in the tax laws of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the eliminations 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 applying the provisions of this Agreement.

ARTICLE 26 – EXCHANGE OF INFORMATION

1. The competent authorities or the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement for the avoidance of double taxation and prevention of evasion of taxes covered by this Agreement. Any information so exchanged shall be treated as secret and shall be disclosed only to any persons or authorities (including a Court or reviewing authority) concerned with the assessment, collection, enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of the 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 and the administrative practice of that or of the other Contracting State;
- (b) to supply particulars which are not obtainable under the laws or in the normal course of the administrative of that or of the other Contracting State;

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

ARTICLE 27 – DIPLOMATIC 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 be ratified by the Governments of the Contracting States and the instruments of ratification shall be exchanged at Singapore as soon as possible.

2. This Agreement shall enter into force upon the exchange of instruments of ratification and shall have effect -

- (a) in Singapore:

in respect of Singapore tax for the year of assessment beginning on or after 1 January in the second calendar year following the year in which the exchange of instruments of ratification has taken place and subsequent years of assessment;

- (b) in Indonesia:

in respect of Indonesian tax for the tax year beginning one or after 1 January in the calendar year next following the year in which the exchange of instruments of ratification has taken place and subsequent tax years.

ARTICLE 29 – TERMINATION

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

- (a) in Singapore:

in respect of Singapore tax for the year of assessment beginning on or after 1 January in the second calendar year following the year in which the notice is given and subsequent years of assessment;

- (b) in Indonesia:

in respect of Indonesian tax for the tax year beginning on or after 1 January in the calendar year next following the year in which the notice is given and subsequent tax years.

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

DONE in duplicate at Singapore on this eighth day of May 1990, in the English language.

For the Government of the
Republic of Singapore

HSU TSE-KWANG

For the Government of the
Republic of Indonesia

TUK SETYOHADI

PROTOCOL (1990)

1. At the time of signing the Agreement between the Government of the Republic of Singapore and the Government of the Republic of Indonesia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, both Governments have agreed that the following provisions shall form an integral part of the Agreement.
2. In respect of paragraph 2(h) of Article 5 "Permanent establishment", it is understood that a time limit of 3 months shall apply to an assembly or installation project performed by a person other than the main contractor.
3. In connection with Article 7 "Business profits", nothing in this Article shall prevent either Contracting State from imposing, apart from the corporate income tax, a branch profits tax on the after tax profits of the permanent establishment, provided that the tax so imposed shall not exceed 15% of such amount.
4. In connection with Article 10 "Dividends":
 - (a) Nothing in this Article shall affect the provisions contained in any production sharing contracts relating to the exploitation and production of oil and natural gas which have been negotiated with the Government of Indonesia or the relevant state oil company of Indonesia, provided that a company which is resident in Singapore deriving income from a production sharing contract shall not be less favourably treated with respect to tax than that levied on a company of any third state deriving income from a similar production sharing contract.
 - (b) Article VII of the Agreement between the Government of the Republic of Singapore and the Government of Malaysia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed in Singapore on 26th December, 1968, shall be taken into consideration.

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

DONE in duplicate at Singapore on this eighth day of May 1990, in the English language.

For the Government of the
Republic of Singapore

HSU TSE-KWANG

For the Government of the
Republic of Indonesia

TUK SETYOHADI

EXCHANGE OF NOTES (1990)

COMMISSIONER OF INLAND REVENUE
SINGAPORE

8 May 1990

Your Excellency,

I have the honour to refer that during the negotiations on an Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income between the Republic of Singapore and the Republic of Indonesia, an understanding was reached on how certain provisions and aspects of the Agreement are to be dealt with. The understanding covers:-

(a) *Article 1 – Personal Scope*

Permanent establishments or fixed bases of residents of Singapore or Indonesia in third countries are not covered by this Agreement except the permanent establishments in those countries whose tax is not substantially lower than that in Singapore or Indonesia, and mutually agreed by the competent authorities of both Contracting States;

(b) *Article 4 – Fiscal Domicile*

With regard to paragraph 3 of Article 4, where the competent authorities of the Contracting States could not reach an agreement, the taxable income of the relevant person shall be determined and agreed to by the competent authorities and one- half of such taxable income shall be subject to tax in each of the Contracting States;

(c) If requested, Singapore will publicise the Indonesian position that business profits are subject to the Indonesian concept of "force of attraction of permanent establishment" principle with regard to permanent establishments of residents of Singapore carrying on business in Indonesia.

If the above understanding is acceptable to the Government of the Republic of Indonesia, I have further the honour to suggest that this letter and your reply to that effect will place on record the understanding of our two Governments in this matter.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

Sincerely,

HSU TSE-KWANG
COMMISSIONER OF INLAND REVENUE
MINISTRY OF FINANCE
REPUBLIC OF SINGAPORE

H.E. MR TUK SETYOHADI
AMBASSADOR OF THE REPUBLIC OF INDONESIA
SINGAPORE

*Ambassador
of the Republic of Indonesia*

Singapore, 8 May 1990

Your Excellency,

I have the honour to refer to your letter of 8 May 1990 which reads as follows:

“Your Excellency,

I have the honour to refer that during the negotiations on an Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income between the Republic of Singapore and the Republic of Indonesia, an understanding was reached on how certain provisions and aspects of the Agreement are to be dealt with. The understanding covers:

(a) *Article 1 – Personal Scope*

Permanent establishments or fixed bases of residents of Singapore or Indonesia in third countries are not covered by this Agreement except the permanent establishments in those countries whose tax is not substantially lower than that in Singapore or Indonesia, and mutually agreed by the competent authorities of both Contracting States;

(b) *Article 4 – Fiscal Domicile*

With regard to paragraph 3 of Article 4, where the competent authorities of the Contracting States could not reach an agreement, the taxable income of the relevant person shall be determined and agreed to by the competent authorities and one- half of such taxable income shall be subject to tax in each of the Contracting States;

(c) If requested, Singapore will publicise the Indonesian position that business profits are subject to the Indonesian concept of "force of attraction of permanent establishment" principle with regard to permanent establishments of residents of Singapore carrying on business in Indonesia.

If the above understanding is acceptable to the Government of the Republic of Indonesia, I have further the honour to suggest that this letter and your reply to that effect will place on record the understanding of our two Governments in this matter.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.”

I have further the honour to confirm that the content of your letter is acceptable to the Government of the Republic of Indonesia and that your letter and his reply place on record the understanding of our two Governments in this matter.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

Sincerely,

TUK SETYOHADI
AMBASSADOR OF INDONESIA
TO THE REPUBLIC OF SINGAPORE

H.E. MR HSU TSE-KWANG
COMMISSIONER OF INLAND REVENUE
MINISTRY OF FINANCE
REPUBLIC OF SINGAPORE

ANNEX B

Effects of the MLI on the Agreement between the Government of the Republic of Singapore and the Government of the Republic of Indonesia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed on 8 May 1990 and effective from 1 January 1992

1. Deletion and replacement of the Preamble

The preamble of this Agreement is deleted and replaced by the following preamble:

“The Government of the Republic of Singapore and the Government of the Republic of Indonesia,

Intending to eliminate double taxation with respect to the taxes covered by this Agreement without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third jurisdictions),

Have agreed as follows:”.

2. Amendment of Article 9

Article 9 (Associated Enterprises) of this Agreement is amended —

- (a) by numbering the existing provision as paragraph 1; and
- (b) by inserting, immediately after paragraph 1, the following paragraph:

“2. Where a Contracting State includes in the profits of an enterprise of that Contracting State — and taxes accordingly — profits on which an enterprise of the other Contracting State has been charged to tax in that other Contracting State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Contracting State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Contracting State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.”.

3. New Article 27A

The following new Article 27A is inserted immediately after Article 27 (Diplomatic Agents and Consular Officers):

“ARTICLE 27A - PREVENTION OF TREATY ABUSE

Notwithstanding any provisions of this Agreement, a benefit under this Agreement shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Agreement.”

4. Entry into effect of the MLI

The effects of the MLI on this Agreement, as laid out in this Annex, shall have effect in Singapore:

- (a) with respect to taxes withheld at source, in respect of amounts paid, deemed paid or liable to be paid (whichever is the earliest), on or after 1 January 2021; and
- (b) with respect to taxes other than those withheld at source, where the income is derived or received in a basis period beginning on or after 26 June 2021.