

**SURAT EDARAN
NOMOR 7/PJ/2025**

TENTANG

PEMBERITAHUAN BERLAKUNYA KONVENSI MULTILATERAL UNTUK MENERAPKAN TINDAKAN-TINDAKAN TERKAIT DENGAN PERSETUJUAN PENGHINDARAN PAJAK BERGANDA UNTUK MENCEGAH PENGGERUSAN BASIS PEMAJAKAN DAN PENGGESERAN LABA UNTUK PERSETUJUAN PENGHINDARAN PAJAK BERGANDA ANTARA PEMERINTAH REPUBLIK INDONESIA DAN PEMERINTAH REPUBLIK TUNISIA

- Yth. 1. Pejabat Eselon II di Kantor Pusat Direktorat Jenderal Pajak;
2. Kepala Kantor Wilayah;
3. Kepala Kantor Pelayanan Pajak; dan
4. Kepala Unit Pelaksana Teknis.

A. Umum

Sehubungan dengan telah selesainya prosedur pengesahan dan penyampaian instrumen pengesahan *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting* (Konvensi Multilateral untuk Menerapkan Tindakan-Tindakan terkait dengan Persetujuan Penghindaran Pajak Berganda untuk Mencegah Penggerusan Basis Pemajakan dan Penggeseran Laba), yang selanjutnya disebut Konvensi, oleh Pemerintah Republik Indonesia dan Pemerintah Republik Tunisia sebagaimana yang dipersyaratkan dalam Konvensi, perlu diterbitkan Surat Edaran sebagai pemberitahuan saat berlaku, saat berlaku efektif, dan pokok-pokok pengaturan dalam Konvensi yang berlaku untuk Persetujuan Penghindaran Pajak Berganda antara Pemerintah Republik Indonesia dan Pemerintah Republik Tunisia, yang selanjutnya disebut P3B Indonesia-Tunisia.

B. Maksud dan Tujuan

1. Maksud

Surat Edaran Direktur Jenderal ini dimaksudkan untuk memberitahukan seluruh unit di lingkungan Direktorat Jenderal Pajak mengenai saat berlaku, saat berlaku efektif, dan pokok-pokok pengaturan dalam Konvensi yang berlaku untuk P3B Indonesia-Tunisia.

2. Tujuan

Surat Edaran Direktur Jenderal ini bertujuan agar pelaksanaan ketentuan-ketentuan dalam Konvensi yang berlaku untuk P3B Indonesia-Tunisia dapat berjalan sebagaimana mestinya.

C. Ruang Lingkup

Ruang lingkup Surat Edaran Direktur Jenderal ini meliputi:

1. keberlakuan P3B Indonesia-Tunisia;
2. proses penandatanganan dan pemberlakuan Konvensi oleh Pemerintah Republik Indonesia dan Pemerintah Republik Tunisia;
3. saat berlaku dan saat berlaku efektifnya Konvensi untuk P3B Indonesia-Tunisia; dan
4. pokok-pokok pengaturan dalam Konvensi yang berlaku untuk P3B Indonesia-Tunisia.

D. Dasar

1. Undang-Undang Nomor 7 Tahun 1983 tentang Pajak Penghasilan sebagaimana telah beberapa kali diubah terakhir dengan Undang-Undang Nomor 6 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 tentang Cipta Kerja menjadi Undang-Undang.
2. Undang-Undang Nomor 24 Tahun 2000 tentang Perjanjian Internasional.

3. Persetujuan antara Pemerintah Republik Indonesia dan Pemerintah Republik Tunisia tentang Penghindaran Pajak Berganda dan Pencegahan Pengelakan Pajak atas Penghasilan.
4. Keputusan Presiden Nomor 19 Tahun 1993 tentang Pengesahan Persetujuan antara Pemerintah Republik Indonesia dan Pemerintah Republik Tunisia tentang Penghindaran Pajak Berganda dan Pencegahan Pengelakan Pajak atas Penghasilan.
5. *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting* (Konvensi Multilateral untuk Menerapkan Tindakan-Tindakan Terkait dengan Persetujuan Penghindaran Pajak Berganda untuk Mencegah Penggerusan Basis Pemajakan dan Penggeseran Laba).
6. Peraturan Presiden Nomor 77 Tahun 2019 tentang Pengesahan *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting* (Konvensi Multilateral untuk Menerapkan Tindakan-Tindakan Terkait dengan Persetujuan Penghindaran Pajak Berganda untuk Mencegah Penggerusan Basis Pemajakan dan Penggeseran Laba) sebagaimana telah diubah dengan Peraturan Presiden Nomor 63 Tahun 2024 tentang Perubahan atas Peraturan Presiden Nomor 77 Tahun 2019 tentang Pengesahan *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting* (Konvensi Multilateral untuk Menerapkan Tindakan-Tindakan terkait dengan Persetujuan Penghindaran Pajak Berganda untuk Mencegah Penggerusan Basis Pemajakan dan Penggeseran Laba).

E. Uraian

1. P3B Indonesia-Tunisia telah berlaku efektif sejak tanggal 1 Januari 1994.
2. Proses penandatanganan dan pemberlakuan Konvensi oleh Pemerintah Republik Indonesia dan Pemerintah Republik Tunisia:
 - a. Pemerintah Republik Indonesia menandatangani Konvensi di Paris, Prancis pada tanggal 7 Juni 2017 dan Pemerintah Republik Tunisia menandatangani Konvensi pada tanggal 24 Januari 2018;

- b. Pemerintah Republik Indonesia meratifikasi Konvensi dengan Peraturan Presiden Nomor 77 Tahun 2019 tentang Pengesahan *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting* (Konvensi Multilateral untuk Menerapkan Tindakan-Tindakan Terkait dengan Persetujuan Penghindaran Pajak Berganda untuk Mencegah Penggerusan Basis Pemajakan dan Penggeseran Laba) sebagaimana telah diubah dengan Peraturan Presiden Nomor 63 Tahun 2024 tentang Perubahan atas Peraturan Presiden Nomor 77 Tahun 2019 tentang Pengesahan *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting* (Konvensi Multilateral untuk Menerapkan Tindakan-Tindakan terkait dengan Persetujuan Penghindaran Pajak Berganda untuk Mencegah Penggerusan Basis Pemajakan dan Penggeseran Laba);
 - c. berdasarkan dokumen Pensyaratan dan Notifikasi (*Reservations and Notifications*) yang disampaikan kepada Sekretaris Jenderal *Organisation for the Economic Co-operation and Development* selaku Penyimpan, Pemerintah Republik Indonesia dan Pemerintah Republik Tunisia memilih P3B Indonesia-Tunisia untuk tercakup dalam Konvensi sehingga ketentuan-ketentuan dalam Konvensi yang diadopsi oleh Pemerintah Republik Indonesia dan Pemerintah Republik Tunisia akan memodifikasi P3B Indonesia-Tunisia; dan
 - d. Pemerintah Republik Indonesia menyampaikan instrumen ratifikasi kepada Sekretaris Jenderal *Organisation for the Economic Co-operation and Development* selaku Penyimpan pada 28 April 2020 sedangkan Pemerintah Republik Tunisia menyampaikan instrumen pengesahannya pada tanggal 24 Juli 2023.
3. Berdasarkan Pasal 34 Konvensi, Konvensi berlaku bagi Indonesia pada tanggal 1 Agustus 2020 dan bagi Tunisia pada tanggal 1 November 2023.

4. Berdasarkan Pasal 35 Konvensi, ketentuan-ketentuan dalam Konvensi yang diadopsi oleh Pemerintah Republik Indonesia dan Pemerintah Republik Tunisia berlaku efektif untuk P3B Indonesia-Tunisia:
 - a. sehubungan dengan pajak-pajak yang dipotong atau dipungut di negara sumber atas pembayaran kepada atau dikreditkan oleh subjek pajak luar negeri, apabila kejadian yang menimbulkan pajak terjadi pada atau setelah tanggal 1 Januari 2025 di Indonesia dan Tunisia; dan
 - b. sehubungan dengan pajak-pajak lainnya yang dikenakan pada tahun pajak yang dimulai pada atau setelah tanggal 1 Januari 2026 di Indonesia dan tanggal 28 Agustus 2025 di Tunisia.
5. Pokok-pokok pengaturan dalam Konvensi yang berlaku untuk P3B Indonesia-Tunisia:
 - a. Pasal 6 ayat 1 Konvensi mengganti mukadimah P3B Indonesia-Tunisia untuk menegaskan bahwa tujuan pembentukan P3B adalah untuk mengeliminasi pemajakan berganda tanpa menciptakan ruang untuk tidak dikenai pajak sama sekali atau pengurangan pajak melalui pengelakan atau penghindaran pajak (termasuk melalui pengaturan treaty shopping dalam rangka memperoleh keringanan yang disediakan dalam P3B Indonesia-Tunisia untuk manfaat penduduk negara/yurisdiksi pihak ketiga secara tidak langsung);
 - b. Pasal 7 ayat 1 Konvensi berlaku untuk P3B Indonesia-Tunisia sehingga manfaat P3B tidak diberikan jika dapat disimpulkan, dengan mempertimbangkan seluruh fakta dan keadaan terkait, bahwa salah satu tujuan utama dari transaksi yang dilakukan adalah untuk memperoleh manfaat P3B tersebut kecuali dibuktikan bahwa pemberian manfaat P3B dalam keadaan terkait tersebut sesuai dengan maksud dan tujuan dari ketentuan yang relevan dalam P3B;
 - c. Pasal 9 ayat 4 Konvensi berlaku untuk Pasal 13 P3B Indonesia-Tunisia sehingga keuntungan yang diperoleh penduduk suatu Negara Pihak pada P3B Indonesia-Tunisia

dari pengalihan saham atau hak-hak yang sebanding, seperti hak dalam persekutuan atau penitipan dengan pengelolaan (*trust*), dapat dipajaki di Negara Pihak lainnya hanya jika kapan pun dalam jangka waktu 365 (tiga ratus enam puluh lima) hari sebelum pengalihan, saham, atau hak-hak yang sebanding tersebut memperoleh lebih dari 50% (lima puluh persen) nilainya secara langsung atau tidak langsung dari harta tak bergerak yang berada di Negara Pihak lainnya tersebut;

d. Pasal 12:

1)

ayat 1 Konvensi mengganti Pasal 5 ayat 5 huruf (a) P3B Indonesia-Tunisia sehingga pengertian bentuk usaha tetap agen dalam Pasal 5 ayat 5 huruf (a) P3B Indonesia-Tunisia menjadi orang pribadi atau badan yang bertindak di suatu Negara Pihak atas nama suatu perusahaan dan, dalam melakukannya, biasa menyepakati kontrak, atau biasa memainkan peran utama yang mengarah pada kesepakatan atas kontrak yang secara rutin disepakati tanpa modifikasi material oleh perusahaan tersebut, dan kontrak-kontrak ini:

- a) atas nama perusahaan tersebut; atau
- b) untuk pengalihan kepemilikan atas, atau untuk pemberian hak untuk menggunakan, harta yang dimiliki oleh perusahaan tersebut atau yang mana perusahaan tersebut memiliki hak untuk menggunakan; atau
- c) untuk penyediaan jasa oleh perusahaan tersebut;

2)

ayat 2 Konvensi mengganti Pasal 5 ayat 6 P3B Indonesia-Tunisia sehingga orang pribadi atau badan yang bertindak sepenuhnya atau hampir sepenuhnya atas nama satu atau

lebih perusahaan yang erat terkait dengannya tidak dianggap sebagai agen yang berkedudukan bebas;

e. Pasal 13:

1)

ayat 2 Konvensi (Opsi A) berlaku untuk Pasal 5 ayat 4 P3B Indonesia-Tunisia sehingga pengertian bentuk usaha tetap dalam P3B Indonesia-Tunisia tidak termasuk:

- a) kegiatan-kegiatan yang secara khusus tercantum dalam Pasal 5 ayat 4 P3B Indonesia-Tunisia;
- b) pemeliharaan tempat usaha yang bersifat tetap semata-mata untuk tujuan menjalankan, bagi perusahaan tersebut, setiap kegiatan yang tidak dijelaskan dalam huruf a);
- c) pemeliharaan tempat usaha yang bersifat tetap semata-mata untuk kombinasi kegiatan yang disebutkan dalam huruf a) dan huruf b),

sepanjang kegiatan tersebut atau, dalam hal huruf c), keseluruhan kegiatan dari tempat usaha yang bersifat tetap tersebut, bersifat persiapan atau penunjang;

2)

ayat 4 Konvensi berlaku untuk Pasal 5 ayat 4 P3B Indonesia-Tunisia sehingga Pasal 5 ayat 4 P3B Indonesia-Tunisia tidak berlaku untuk tempat usaha yang bersifat tetap yang digunakan atau dipelihara oleh suatu perusahaan jika perusahaan yang sama atau perusahaan yang erat terkait menjalankan kegiatan usaha di tempat yang sama atau di tempat lainnya di Negara Pihak yang sama dan:

- a) tempat atau tempat lain itu merupakan bentuk usaha tetap bagi perusahaan atau perusahaan yang erat terkait; atau
- b) keseluruhan kegiatan yang dihasilkan dari kombinasi kegiatan yang dijalankan oleh kedua perusahaan di tempat yang sama, atau oleh perusahaan yang sama atau perusahaan-perusahaan yang erat terkait di dua tempat, tidak bersifat persiapan atau penunjang,

sepanjang kegiatan usaha yang dijalankan oleh kedua perusahaan di tempat yang sama, atau oleh perusahaan yang sama atau perusahaan-perusahaan yang erat terkait di dua tempat, merupakan fungsi pelengkap yang merupakan bagian yang tidak terpisahkan dari kegiatan usaha;

f. Pasal 14 ayat 1 Konvensi berlaku untuk Pasal 5 ayat 3 huruf (a) P3B Indonesia-Tunisia sehingga untuk tujuan menentukan periode waktu bentuk usaha tetap konstruksi menurut Pasal 5 ayat 3 huruf (a) P3B Indonesia-Tunisia:

- 1) apabila perusahaan suatu Negara Pihak pada P3B Indonesia-Tunisia menjalankan kegiatan di Negara Pihak lainnya di suatu tempat yang merupakan bangunan, proyek konstruksi, proyek instalasi, atau proyek tertentu lainnya, atau menjalankan kegiatan pengawasan berkenaan dengan suatu tempat tersebut, dan kegiatan-kegiatan ini dijalankan melampaui 30 (tiga puluh) hari namun belum melampaui periode waktu bentuk usaha tetap konstruksi dalam Pasal 5 ayat 3 huruf (a) P3B Indonesia-Tunisia; dan

- 2) apabila kegiatan-kegiatan yang berhubungan dijalankan di Negara Pihak lainnya itu di bangunan, proyek konstruksi, atau instalasi, atau tempat lainnya yang sama selama periode waktu yang berbeda, masing-masing melampaui 30 (tiga puluh) hari oleh satu atau lebih perusahaan yang erat terkait dengan perusahaan yang disebut pertama, periode waktu yang berbeda ini ditambahkan ke periode waktu keseluruhan selama perusahaan yang disebut pertama menjalankan kegiatan di bangunan, proyek konstruksi, atau instalasi, atau tempat lainnya itu;
- g. Pasal 15 ayat 1 Konvensi berlaku untuk P3B Indonesia-Tunisia sehingga pengertian orang pribadi atau badan yang erat terkait dengan suatu perusahaan adalah orang pribadi atau badan yang:
- 1) berdasarkan seluruh fakta dan keadaan terkait, salah satunya memiliki pengendalian atas yang lainnya atau keduanya di bawah pengendalian orang pribadi atau badan yang sama; atau
 - 2) salah satunya memiliki baik secara langsung maupun tidak langsung lebih dari 50% (lima puluh persen) hak atas yang lainnya (atau, dalam hal perseroan, lebih dari 50% (lima puluh persen) hak suara dan nilai saham perseroan atau hak atas ekuitas perseroan) atau jika orang pribadi atau badan lainnya memiliki baik secara langsung maupun tidak langsung lebih dari 50% (lima puluh persen) hak (atau, dalam hal perseroan, lebih dari 50% (lima puluh persen) hak suara dan nilai saham perseroan atau hak atas ekuitas perseroan) atas orang pribadi atau badan tersebut;
- h. Pasal 16 ayat 2 kalimat kedua Konvensi berlaku untuk Pasal 24 ayat 2 P3B Indonesia-Tunisia sehingga persetujuan bersama yang dicapai dilaksanakan terlepas dari batasan waktu menurut peraturan perundang-undangan domestik; dan
- i. Pasal 17 ayat 1 Konvensi berlaku untuk Pasal 9 P3B Indonesia-Tunisia sehingga dalam hal terdapat penyesuaian laba perusahaan di suatu Negara Pihak pada P3B Indonesia-Tunisia, Negara Pihak lainnya harus melakukan penyesuaian lanjutan atas laba pihak-pihak yang memiliki hubungan istimewa dengan perusahaan tersebut.

F. Penutup

1. Penerapan ketentuan-ketentuan dalam Konvensi yang diadopsi oleh Pemerintah Republik Indonesia dan Pemerintah Republik Tunisia dilakukan secara bersamaan dengan penerapan ketentuan-ketentuan dalam P3B Indonesia-Tunisia. Daftar ketentuan-ketentuan dalam Konvensi yang diadopsi oleh Pemerintah Republik Indonesia dan Pemerintah Republik Tunisia dapat dilihat secara daring pada laman OECD MLI *Matching Database*.
2. Naskah hasil modifikasi (naskah sintesis) P3B Indonesia-Tunisia dalam bahasa Inggris sebagai akibat dari pemberlakuan Konvensi tercantum dalam Lampiran yang merupakan bagian tidak terpisahkan dari Surat Edaran ini. Naskah tersebut hanya digunakan untuk memahami dampak pemberlakuan Konvensi terhadap P3B Indonesia-Tunisia.

Demikian Surat Edaran ini disampaikan untuk diketahui dan dilaksanakan sebagaimana mestinya.

Ditetapkan di Jakarta
pada tanggal 2 Mei 2025
Direktur Jenderal Pajak
ttd.
Suryo Utomo

LAMPIRAN

Surat Edaran Direktur Jenderal Pajak

Nomor : 7/PJ/2025

Tanggal : 2 Mei 2025

NASKAH SINTESIS KONVENSI DAN P3B INDONESIA-TUNISIA

Naskah ini merupakan naskah sintesis untuk penerapan P3B Indonesia-Tunisia yang dimodifikasi dengan Konvensi yang ditandatangani Pemerintah Republik Indonesia pada tanggal 7 Juni 2017 dan Pemerintah Republik Tunisia pada tanggal 24 Januari 2018.

Naskah sintesis ini disusun berdasarkan posisi Konvensi Indonesia yang disampaikan ke Penyimpan pada tanggal 27 November 2023 dan posisi Konvensi Tunisia yang disampaikan ke Penyimpan pada 24 Juli 2024. Posisi Konvensi dapat berubah sebagaimana yang diatur dalam Konvensi. Perubahan atas posisi Konvensi dapat mempengaruhi dampak Konvensi atas P3B Indonesia-Tunisia.

Tujuan naskah sintesis ini hanyalah untuk membantu dalam memahami penerapan Konvensi terhadap P3B Indonesia-Tunisia dan tidak dapat dijadikan sebagai sumber hukum. Naskah asli Konvensi dan P3B Indonesia-Tunisia tetap menjadi dasar hukum yang berlaku.

Pokok-pokok pengaturan dalam Konvensi yang berlaku untuk P3B Indonesia-Tunisia dinyatakan dalam kotak-kotak dalam konteks ketentuan yang relevan dari P3B Indonesia-Tunisia. Kotak-kotak tersebut dimasukkan sesuai dengan urutan ketentuan dalam P3B Indonesia-Tunisia.

Beberapa terminologi dalam Konvensi telah diubah untuk menyesuaikan dengan terminologi yang digunakan dalam P3B Indonesia-Tunisia (seperti "*Covered Tax Agreement*" dan "*Agreement*", "*Contracting Jurisdictions*" dan "*Contracting States*"), untuk mempermudah pemahaman atas Konvensi. Perubahan terminologi tersebut dimaksudkan untuk membantu pembaca dan bukan untuk mengubah substansi pengaturan dalam Konvensi. Lebih lanjut, beberapa bagian pengaturan dalam Konvensi juga diubah untuk menjelaskan ketentuan P3B Indonesia-Tunisia yang saat ini berlaku: narasi deskriptif diganti dengan rujukan ketentuan P3B Indonesia-Tunisia yang saat ini berlaku untuk membantu pembaca.

Seluruh rujukan ke ketentuan P3B Indonesia-Tunisia harus dimaknai sebagai rujukan ke ketentuan P3B Indonesia-Tunisia yang dimodifikasi Konvensi setelah Konvensi telah berlaku efektif.

Referensi

Posisi Konvensi Indonesia dan Tunisia yang disampaikan ke Penyimpan dapat dilihat di [laman Penyimpan Konvensi \(OECD\)](#).

Keberlakuan Efektif Konvensi

Pokok-pokok pengaturan dalam Konvensi yang berlaku untuk P3B Indonesia-Tunisia tidak berlaku efektif pada saat yang sama dengan ketentuan P3B Indonesia-Tunisia. Masing-masing pengaturan dalam Konvensi dapat berlaku efektif pada tanggal yang berbeda

tergantung pada jenis pajaknya (pajak-pajak yang dipotong atau dipungut di negara sumber atau pajak-pajak lainnya) dan pilihan yang dibuat oleh Pemerintah Republik Indonesia dan Pemerintah Republik Tunisia dalam posisi Konvensinya.

Tanggal penyampaian instrumen pengesahan: 28 April 2020 untuk Indonesia dan 24 Juli 2023 untuk Tunisia.

Saat berlaku Konvensi: 1 Agustus 2020 bagi Indonesia dan 1 November 2023 bagi Tunisia.

Berdasarkan Pasal 35 Konvensi, ketentuan-ketentuan dalam Konvensi yang diadopsi oleh Pemerintah Republik Indonesia dan Tunisia yang dinyatakan dalam kotak-kotak, berlaku efektif untuk P3B Indonesia-Tunisia:

- a. sehubungan dengan pajak-pajak yang dipotong atau dipungut di negara sumber atas pembayaran kepada atau dikreditkan oleh subjek pajak luar negeri, apabila kejadian yang menimbulkan pajak terjadi pada atau setelah tanggal 1 Januari 2025 di Indonesia dan Tunisia; dan
- b. sehubungan dengan pajak-pajak lainnya yang dikenakan pada tahun pajak yang dimulai pada atau setelah tanggal 1 Januari 2026 di Indonesia dan tanggal 28 Agustus 2025 di Tunisia.

The Government of the Republic of Indonesia and the Government of the Republic of Tunisia [REPLACED by paragraph 1 of Article 6 of the MLI] [Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.]

The following paragraph 1 of Article 6 of the MLI replaces the text referring to an intent to eliminate double taxation in the preamble of this Agreement:

ARTICLE 6 OF THE MLI — PURPOSE OF A COVERED TAX AGREEMENT

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 the agreement for the indirect benefit of residents of third jurisdictions),

HAVE AGREED AS FOLLOWS:

**Article 1
PERSONAL SCOPE**

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

**Article 2
TAXES COVERED**

1. *This Agreement shall apply to taxes on income imposed on behalf of a Contracting State, 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.*
3. *The existing taxes to which the Agreement shall apply are:*
 - (a) *in the case of Indonesia:*
the income tax imposed under the Undang-undang Pajak Penghasilan 1984 (Law no. 7 of 1983)
(hereinafter referred to as "Indonesian tax");
 - (b) *in the case of Tunisia :*
 - (i) *the tax on business income (l'impôt sur les bénéfices industriels et commerciaux);*
 - (ii) *the corporation tax (l'impôt sur les bénéfices des sociétés);*
 - (iii) *the tax on income from non-commercial occupations (l'impôt sur les bénéfices des professions non-commerciales);*
 - (iv) *the tax on wages and salaries (l'impôt sur les traitements et salaires);*
 - (v) *the agricultural tax (l'impôt agricole);*
 - (vi) *the tax on capital appreciation of immovable properties (l'impôt sur les plus-values immobilières);*
 - (vii) *the tax on income from debts, deposits, guarantees and current accounts (l'impôt sur le revenu des créances, dépôts, cautionnements et comptes courants) (IRC);*
 - (viii) *the exceptional tax for solidarity (la contribution exceptionnelle de solidarité);*
 - (ix) *the tax on income from transferable securities (l'impôt sur le revenu des valeurs mobilières);*
 - (x) *the State personal levy (la contribution personnelle d'Etat)*
(hereinafter referred to as "Tunisian tax")
4. *The Agreement shall 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 substantial changes which have been made in their respective taxation laws.

Article 3 GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:
 - (a) (i) the term "Indonesia" comprises the territory of the Republic of Indonesia as defined in its laws and the adjacent areas over which the Republic of Indonesia has sovereign rights or jurisdiction in accordance with international law;
 - (ii) the term "Tunisia" used in a geographical sense, means the territory of the Tunisian Republic, including any area lying beyond the territorial waters of Tunisia which, under the law of Tunisia and in accordance with international law, is an area within which Tunisia may exercise rights in respect of the sea bed and its sub-soil and their natural resources;
 - (b) the terms "a Contracting State" and "the other Contracting State" mean Tunisia or Indonesia, as the context requires;
 - (c) the term "tax" means Indonesian tax or Tunisian tax, 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 which is treated as a body corporate for the 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 "nationals" means:
 - (i) all individuals possessing the nationality of a Contracting State;
 - (ii) all legal persons, partnership and associations 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 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 authorized representative;
 - (ii) in the case of Tunisia, the Ministry of Finance or his authorized representative;
2. As regards the application of the Agreement by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Agreement applies.

Article 4 RESIDENT

1. For the purpose of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of head office, place of management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:
 - (a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);

- (b) *if the 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 State, he shall be deemed to be a resident of the State in which he has an habitual abode;*
 - (c) *if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;*
 - (d) *if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.*
3. *Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated. In case of doubt 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" includes especially:*
 - (a) *a place of management;*
 - (b) *a branch;*
 - (c) *an office;*
 - (d) *a factory;*
 - (e) *a workshop; and*
 - (f) *a mine, a quarry or any other place of extraction of natural resources.*
- 3. *The term "permanent establishment likewise encompasses :*
 - (a) **[MODIFIED by paragraph 1 of Article 14 of the MLI]** *[a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than three months];*

The following paragraph 1 of Article 14 of the MLI applies and supersedes subparagraph (a) of paragraph 3 of Article 5 of this Agreement:

ARTICLE 14 OF THE MLI — SPLITTING-UP OF CONTRACTS

For the sole purpose of determining whether three month period referred to in subparagraph (a) of paragraph 3 of Article 5 of the Agreement has been exceeded:

- a) *where an enterprise of a Contracting State carries on activities in the other Contracting State at a place that constitutes a building site, construction project, installation project or other specific project identified in subparagraph (a) of paragraph 3 of Article 5 of the Agreement, or carries on supervisory activities in connection with such a place, and these activities are carried on during one or more periods of time that, in the aggregate, exceed 30 days without exceeding the period or periods referred to in subparagraph (a) of paragraph 3 of Article 5 of the Agreement; and*
- b) *where connected activities are carried on in that other Contracting State at (or, where subparagraph (a) of paragraph 3 of Article 5 of the Agreement applies to supervisory, in connection with) the same building site, construction project, installation project, or other specific project identified in subparagraph (a) of paragraph 3 of Article 5 of the Agreement during different periods of time, each exceeding 30 days, by one or more enterprises closely related to the first-mentioned enterprise, these different periods of time shall be added to the aggregate period of time during which the first-mentioned enterprise has carried on activities at that a building site, construction*

project, installation project, or other specific project identified in subparagraph a of paragraph 3 of Article 5 of the Agreement.

(b) the furnishing of services, including consultancy services, by an enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than three months within any 12-month period.

4. **[MODIFIED by paragraph 2 and paragraph 4 of Article 13 of the MLI]** [Notwithstanding the provisions of this Article, the term "permanent establishment" shall be deemed not to include:

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

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

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

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

(e) the maintenance of fixed place of business solely for the purpose of advertising, or for the supply of information for the enterprises;

(f) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

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

The following paragraph 2 of Article 13 of the MLI applies to paragraph 4 of Article 5 of this Agreement:

ARTICLE 13 OF THE MLI — ARTIFICIAL AVOIDANCE OF PERMANENT ESTABLISHMENT STATUS THROUGH THE SPECIFIC ACTIVITY EXEMPTIONS (Option A)

Notwithstanding Article 5 of the Agreement, the term "permanent establishment" shall be deemed not to include:

a) the activities specifically listed in paragraph 4 of Article 5 of the Agreement as activities deemed not to constitute a permanent establishment, whether or not that exception from permanent establishment status is contingent on the activity being of a preparatory or auxiliary character;

b) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any activity not described in subparagraph a);

c) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) and b),

provided that such activity or, in the case of subparagraph c), the overall activity of the fixed place of business, is of a preparatory or auxiliary character.

The following paragraph 4 of Article 13 of the MLI applies to paragraph 4 of Article 5 of this Agreement (as modified by paragraph 2 of Article 13 of the MLI):

ARTICLE 13 OF THE MLI — ARTIFICIAL AVOIDANCE OF PERMANENT ESTABLISHMENT STATUS THROUGH THE SPECIFIC ACTIVITY EXEMPTIONS

Article 5 of the Agreement (as modified by paragraph 2 of Article 13 of the MLI) shall not apply to a fixed place of business that is used or maintained by an enterprise if the same

enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same Contracting State and:

- a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of Article 5 of the Agreement; or
 - b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,
- provided that the business activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, constitute complementary functions that are part of a cohesive business operation.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 6 applies – is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:
- (a) **[REPLACED by paragraph 1 of Article 12 of the MLI]** [Has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph]; or

The following paragraph 1 of Article 12 of the MLI replaces subparagraph (a) of paragraph 5 of Article 5 of this Agreement:

ARTICLE 12 OF THE MLI — ARTIFICIAL AVOIDANCE OF PERMANENT ESTABLISHMENT STATUS THROUGH COMMISSIONNAIRE ARRANGEMENTS AND SIMILAR STRATEGIES

Notwithstanding Article 5 of the Agreement, but subject to paragraph 2 of Article 12 of the MLI, where a person is acting in a Contracting State on behalf of an enterprise and, in doing so, habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the enterprise, and these contracts are:

a) in the name of the enterprise; or

b) for the transfer of the ownership of, or for the granting of the right to use, property owned by that enterprise or that the enterprise has the right to use; or

c) for the provision of services by that enterprise,

that enterprise shall be deemed to have a permanent establishment in that Contracting State in respect of any activities which that person undertakes for the enterprise unless these activities, if they were exercised by the enterprise through a fixed place of business of that enterprise situated in that Contracting State, would not cause that fixed place of business to be deemed to constitute a permanent establishment under the definition of permanent establishment included in the provisions of Article 5 of the Agreement.

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

6. **[REPLACED by paragraph 2 of Article 12 of the MLI]** [An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.]

The following paragraph 2 of Article 12 of the MLI replaces paragraph 6 of Article 5 of this Agreement:

ARTICLE 12 OF THE MLI — ARTIFICIAL AVOIDANCE OF PERMANENT ESTABLISHMENT STATUS THROUGH COMMISSIONNAIRE ARRANGEMENTS AND SIMILAR STRATEGIES

Paragraph 1 of Article 12 of the MLI shall not apply where the person acting in a Contracting State on behalf of an enterprise of the other Contracting State carries on business in the first-mentioned Contracting State as an independent agent and acts for the enterprise in the ordinary course of that business. Where, however, a person acts exclusively or almost exclusively on behalf of one or more enterprises to which it is closely related, that person shall not be considered to be an independent agent within the meaning of this paragraph with respect to any such enterprise.

7. *The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.*
8. *An insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other State, if it collects premiums in the territory of that State or insures risks situated therein through an employee or through a representative who is not an agent of an independent status within the meaning of paragraph 6.*

The following paragraph 1 of Article 15 of the MLI applies to provisions of this Agreement:

ARTICLE 15 OF THE MLI — DEFINITION OF A PERSON CLOSELY RELATED TO AN ENTERPRISE

For the purposes of the provisions of Article 5 of the Agreement, a person is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any case, a person shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise.

**Article 6
INCOME FROM IMMOVABLE PROPERTY**

1. *Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.*
2. *The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.*
3. *The provisions of paragraph 1 shall also apply to income derived from the direct use, letting, or use in any other form of immovable property.*

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

Article 7
BUSINESS PROFITS

1. *The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to:*
 - (a) *that permanent establishment; or*
 - (b) *sales of goods or merchandise of the same or similar kind as those sold, or other business activities of the same or similar kind as those effected through that permanent establishment.*
2. *Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.*
3. *In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise by way of interest on moneys lent to the head office of the enterprise or any of its other offices.*
4. *Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude a Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.*
5. *For the purpose of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.*
6. *Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.*

Article 8
SHIPPING AND AIR TRANSPORT

1. *Profits from the operation of ships or aircraft in international traffic by an enterprise of the Contracting State shall be taxable only in that State.*
2. *The profits derived from the operation of ships or aircraft within places in a Contracting State shall be taxable only in that State.*
3. *The provision of paragraph 1 shall also apply to profits derived from the 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, 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.*

The following paragraph 1 of Article 17 of the MLI applies and supersedes the provisions of this Agreement:

ARTICLE 17 OF THE MLI — CORRESPONDING ADJUSTMENTS

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 the Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10
DIVIDENDS

1. *Dividends paid by a company which is 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 also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 12 per cent of the gross amount of the dividends. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.*
3. *The term "dividends" as used in this Article means income from shares 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 dividend 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 12 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 provisions contained in any production sharing contracts and contracts of work (or any other similar contracts) relating to oil and gas sector or other mining sector concluded by each of the Contracting States.*

Article 11 INTEREST

1. *Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.*
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 12 per cent of the gross amount of the interest.*
3. *Notwithstanding paragraphs 1 and 2, interest shall be exempt from tax in the Contracting State in which it arises if the interest is:*
 - a) *beneficially derived by the Government of the other Contracting State including a political subdivision or a local authority thereof or the central bank of that other Contracting State;*
 - b) *paid by the Government of that Contracting State or a political subdivision or by the local authority thereof to a resident of the other Contracting State, when the maturity of this interest-generating loan is at least 7 years.*
4. *The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by a mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures.*
5. *The provisions of paragraphs 1, and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected*

with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. *Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority, or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by 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.*
7. *Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.*

Article 12 ROYALTIES

1. *Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.*
2. *However, such royalties may be also taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 15 per cent of the gross amount of the royalties.*
3. *The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph film, and films or tapes for radio or television broadcasting), any patent, trade mark, design or model, plan, secret formula or process or for the use of, or the right to use, agricultural, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or experience, or for technical or economic studies, or for technical assistance.*
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 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 14, as the case may be, shall apply.*
5. *Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.*
6. *Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payment shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.*

Article 13
CAPITAL GAINS

1. *Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.*
2. *Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or 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 from the alienation of any property other than that referred to in the paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident.*

The following paragraph 4 of Article 9 of the MLI applies and supersedes Article 13 of this Agreement:

ARTICLE 9 OF THE MLI – CAPITAL GAINS FROM ALIENATION OF SHARES OR INTERESTS OF ENTITIES DERIVING THEIR VALUE PRINCIPALLY FROM IMMOVABLE PROPERTY

For purposes of the Agreement, gains derived by a resident of a Contracting State from the alienation of shares or comparable interests, such as interests in a partnership or trust, may be taxed in the other Contracting State if, at any time during the 365 days preceding the alienation, these shares or comparable interests derived more than 50 per cent of their value directly or indirectly from immovable property (real property) situated in that other Contracting State.

Article 14
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 has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities or he is present in that other State for a period or periods exceeding in the aggregate 120 days in any taxable year.
If he has such a fixed base or remains in that other State for the aforesaid period or periods, the income may be taxed in that other State but only so much of it as is attributable to that fixed base or is derived in that other State during the aforesaid period or periods.*
2. *The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.*

Article 15
DEPENDENT PERSONAL SERVICES

1. *Subject to the provisions of Articles 16, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment*

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

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

 - (a) *the recipient is present in that other State for a period or periods not exceeding in the aggregate 183 days in the calendar year; and*
 - (b) *the remuneration is paid by, or on behalf of, an employer who is not a resident of that other State; and*
 - (c) *the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.**
3. *Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State shall be taxable only in that State.*

Article 16 **DIRECTORS' FEES**

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

Article 17 **ARTISTES AND ATHLETES**

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

Article 18 **PENSIONS**

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State, except that, if they are derived from sources within the other Contracting State they may also be taxed in that other State.

Article 19 **GOVERNMENT SERVICE**

1. (a) *Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or a political subdivision or a local authority shall be taxable only in that State.*
- (b) *However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the individual is a resident of that State who:*
 - (i) *is a national of that State; or*
 - (ii) *did not become a resident of that State solely for the purpose of rendering the services.*
2. (a) *Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.*
- (b) *However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that other State.*
3. *The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.*

Article 20
PAYMENTS RECEIVED BY STUDENTS AND APPRENTICES

1. *Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is 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.*
2. *Notwithstanding the provisions of paragraph 1, remuneration which a student or business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting State solely for the purpose of his education or training derives from services rendered in that other State shall not be taxed in that other State in the limit of 3,000 US dollars or its equivalent in Tunisian Dinars or in Indonesian Rupiahs in any calendar year, provided that the remuneration of such services is necessary to supplement the resources available to him for the purpose of his maintenance.*

Article 21
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. *Notwithstanding the provisions of paragraph 1, 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 22
RELIEF FROM DOUBLE TAXATION

Double taxation shall be avoided in the following manner:

1. *In the case of Tunisia:*
Where a resident of Tunisia derives income which, in accordance with the provisions of this Agreement, may be taxed in Indonesia, Tunisia shall subject to the provisions of its domestic tax law, allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Indonesia. Such deduction 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 Tunisia.

2. *In the case of Indonesia :*

Where a resident of Indonesia derives income which, in accordance with the provisions of this Agreement, may be taxed in Tunisia, Indonesia shall subject to the provisions of its domestic tax law, allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Tunisia. Such deduction 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 Indonesia.

Article 23
NON-DISCRIMINATION

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

This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

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. *Except where the provisions of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.*

4. *Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned 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.*

Article 24
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 or, if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national. 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. **[MODIFIED by second sentence of paragraph 2 of Article 16 of the MLI]** *[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.]*

The following second sentence of paragraph 2 of Article 16 of the MLI applies to paragraph 2 of Article 24 of this Agreement:

ARTICLE 16 OF THE MLI — MUTUAL AGREEMENT PROCEDURE

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 Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.*
4. *The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.*

Article 25

EXCHANGE OF INFORMATION

1. *The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Agreement. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.*
2. *In no case 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 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).*

Article 26

DIPLOMATIC AGENTS AND CONSULAR OFFICES

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.

The following paragraph 1 of Article 7 of the MLI applies and supersedes the provisions of this Agreement:

ARTICLE 7 OF THE MLI — PREVENTION OF TREATY ABUSE
(Principal purposes test provision)

Notwithstanding any provisions of the Agreement, a benefit under the 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 the Agreement.

Article 27
ENTRY INTO FORCE

1. *Each Contracting State shall notify to the other the completion of the procedure required by its law for the bringing into force of this Agreement. This Agreement shall enter into force one month after the date of the later of these notifications.*
2. *Its provisions shall apply for the first time:*
 - i) *in respect of taxes withheld at source on income paid or credited, on or after 1 January in the calendar year next following that in which the Agreement enters into force; and*
 - ii) *in respect of other taxes on income, for taxable years beginning on or after 1 January in the calendar year next following that in which the Agreement enters into force.*

Article 28
TERMINATION

This Agreement shall remain in force until terminated by a Contracting State. Either of the Contracting States may, on or before the thirtieth day of June in any calendar year from the fifth year following that in which the Agreement enters into force, give to the other Contracting State, through diplomatic channels, written notice of termination and, in such event, this Agreement shall cease to have effect:

- (a) *in respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of January in the calendar year next following that in which the notice is given; and*
- (b) *in respect of other taxes, for taxable years beginning on or after the first day of January in the calendar year next following that in which the notice is given.*

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

Done in duplicate at Denpasar this thirteenth day of May of the year one thousand nine hundred and ninety two in the Indonesian, Arabic, French and English languages and in case there is any divergency of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF THE
REPUBLIC OF INDONESIA

Signed

ALI ALATAS

FOR THE GOVERNMENT OF THE
REPUBLIC OF TUNISIA

Signed

HABIB BEN YAHIA

Direktur Jenderal Pajak,



Ditandatangani secara elektronik
Suryo Utomo

