CONVENTION BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF INDONESIA
AND
THE GOVERNMENT OF THE FRENCH REPUBLIC

FOR

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

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

[REPLACED by paragraph 1 of Article 6 of the MLI] [Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital],

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 Convention:

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

Intending to eliminate double taxation with respect to the taxes covered by the Convention 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 Convention for the indirect benefit of residents of third jurisdictions),

Have agreed as follows:

Article 1
PERSONAL SCOPE

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

Article 2
TAXES COVERED

1. This Convention shall apply to taxes on income and on capital imposed on behalf of each Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which the Convention shall apply are:
   (a) in the case of Indonesia:
      (1) the income tax;
      (2) the corporation tax;
      (3) the net wealth tax; including any withholding tax, prepayment or advance payment with respect to the aforesaid taxes, and

(4) the tax on dividends, interest and royalties,
(Pajak atas Bunga, Dividen dan Royalty),
(hereinafter refereed to as "Indonesian Tax").

(b) in the case of France:

(1) the income tax;

(2) the corporation tax;
including any withholding tax, prepayment (precompte) or advance payment with respect to the aforesaid taxes;
(hereinafter refereed to as "French Tax");

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

Article 3
GENERAL DEFINITIONS

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

(a) the terms "one of the Contracting States" and "the other Contracting State" mean France or Indonesia, as the context requires;

(b) the term "Indonesia" comprises the territory of the Republic of Indonesia as defined in its laws and parts of the continental shelf and adjacent seas, over which the Republic of Indonesia has sovereignty, sovereign rights or other rights in accordance with international law;

(c) the term "France" means the European and overseas departments of the French Republic, including the area outside the territorial sea adjacent to those departments which is, in accordance with international law, an area within which France may exercise rights with respect to the sea bed and sub-soil and their natural resources;

(d) the term "person" comprises 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 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:

(1) all individuals possessing the nationality of a Contracting State;

(2) all legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State;

(h) the term "competent authority" means:

(1) in the case of Indonesia, the Minister of Finance or his authorised representative;

(2) in the case of France, the Minister of the Budget or his authorised representative.

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

Article 4
FISCAL DOMICILE

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that Contracting State in respect only of income from sources therein or capital situated 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 Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);
   (b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
   (c) if he has an habitual abode in both Contracting States or in neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated. If a place of effective management is considered as situated in 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 Convention, the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.
2. The term "permanent establishment" shall include especially:
   (a) a place of management;
   (b) a branch;
   (c) an office;
   (d) a factory;
   (e) a workshop;
   (f) a farm or plantation;
   (g) a mine, an oil well, quarry or other place of extraction of natural resources;
   (h) a building site or construction or assembly project which exists for more than six months.
3. **[MODIFIED by paragraph 4 of Article 13 of the MLI]** [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.

The following paragraph 4 of Article 13 of the MLI applies to paragraph 3 of Article 5 of this Convention:

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

Article 5 of the Convention 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 Convention; 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.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State -- other than an agent of an independent status to whom paragraph 6 applies -- shall be deemed to be a permanent establishment in the first-mentioned State:

(a) **[REPLACED by paragraph 1 of Article 12 of the MLI]** [if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise;] or

The following paragraph 1 of Article 12 of the MLI replaces subparagraph a) of paragraph 4 of Article 5 of this Convention:

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

Notwithstanding Article 5 of the Convention, 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 Convention.

(b) if he habitually maintains in that State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise.

5. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it renders services to an enterprise of that other Contracting State, including supervisory activities connected with a building-site or a construction, installation or assembly project, through an employee or other person -- other than an agent of independent status to whom paragraph 6 applies -- when such employee or person is present in the other Contracting State for a period or periods exceeding in the aggregate 183 days within a period of 12 months.

6. **[REPLACED by paragraph 2 of Article 12 of the MLI]** [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 to the business of that enterprise, he shall not be considered an agent of an independent status within the meaning of this paragraph if it is proved that the transactions between the agent and the enterprise are not made at arm's length conditions.]

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

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. An insurance enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it collects premiums in that other State or insures risks situated therein through an employee or through a representative who is not an agent of an independent status to whom paragraph 6 applies. This provision shall not apply to reinsurance activities of such an enterprise.
8. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute for either company a permanent establishment of the other.

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

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

For the purposes of Article 5 of the Convention, 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 from immovable property including income from agriculture or forestry may be taxed in the Contracting State in which such property is situated.

2. The term "immovable property" shall be defined in accordance with the taxation laws of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

Article 7
BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that 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. 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 herein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles embodied in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8
SHIPPING AND AIR TRANSPORT

1. Profits derived by an enterprise from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State of which the enterprise is a resident.

2. The provisions of paragraph 1 shall also apply to profits derived by an enterprise from the participation in a pool, a joint business or in an international operating agency but only to so much of the profits so derived as is allocable to the participant in an international joint venture in proportion to its share in the joint operation.

Article 9
ASSOCIATED ENTERPRISES

[MODIFIED by paragraph 1 of Article 17 of the MLI] [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 Convention:

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 Convention 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 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) **[MODIFIED by paragraph 1 of Article 8 of the MLI]** [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;]

The following paragraph 1 of Article 8 of the MLI applies to subparagraph a) of paragraph 2 of Article 10 of this Convention:

ARTICLE 8 OF THE MLI — DIVIDEND TRANSFER TRANSACTIONS

Subparagraph a) of paragraph 2 of Article 10 of the Convention shall apply only if the ownership conditions described in those provisions are met throughout a 365-day period that includes the day of the payment of the dividends (for the purpose of computing that period, no account shall be taken of changes of ownership that would directly result from a corporate reorganisation, such as a merger or divisive reorganisation, of the company that holds the shares or that pays the dividends).

(b) in all other cases, 15% of the gross amount of the dividends.

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 taxation law 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 recipient 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 professional 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 a case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. A resident of Indonesia who receives dividends paid by a company which is a resident of France may obtain the refund of the prepayment (précompte) relating to such dividends, in the event it had been paid by the distributing company. Such prepayment (précompte) shall be refunded subject to the deduction of the tax levied according to the national laws and the provisions of paragraph 2. The gross amount of the prepayment (précompte) refunded shall be deemed to be dividends for the purposes of the provisions of this Convention.

6. Where a company resident of a Contracting State has in the other Contracting State a permanent establishment, the profits of this permanent establishment may, after having borne the corporation tax, be liable to a tax the rate of which shall not exceed 10%, according to the laws of that 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 be taxed in the Contracting State in which it arises, and according to the law of that State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 15% of the amount of the interest.

3. Notwithstanding the provisions of paragraph 2 of this Article, the tax charged by the Contracting State in which the interest arises shall not exceed 10% of the amount of the interest, if:

   (a) the interest is paid by a bank, a financial institution or by an enterprise the activities of which are mainly carried on in the fields of agriculture, plantation, forestry, fishery, mining, manufacturing, industries, transportation, low cost housing projects, tourism and infrastructure, and

   (b) the interest is paid to a bank or to another enterprise.

4. Notwithstanding the provisions of paragraph 2 of this Article, interest arising in a Contracting State shall be taxable only in the other Contracting State if it is paid:

   (a) to that other Contracting State or to a statutory body thereof, or

   (b) to an enterprise of that other Contracting State on loans or credits granted with the participation of a financing public institution of that other State and with the consent of the Minister in charge of financial or economic affairs or of planning of the first-mentioned Contracting State, in connection with the sale of any industrial or scientific equipment or with the survey, the installation or the supply of industrial or scientific premises or of public works.

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 bonds or debentures.
6. The provisions of paragraphs 1, 2, 3 and 4 shall not apply if the recipient 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 professional services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.
7. Interest 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 thereof 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 Contracting State in which the permanent establishment is situated.
8. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

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 10% of the amount of the royalties.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and works recorded for broadcasting or television, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.
4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the royalties, being a resident of a Contracting State, 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 professional 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 a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the obligation to pay the royalties was incurred, and those royalties are borne by that permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13
CAPITAL GAINS

1. **[MODIFIED by paragraph 4 of Article 9 of the MLI]** [Gains from the alienation of immovable property, as defined in paragraph 2 of Article 6, or from the alienation of shares or comparable interest in a real property cooperative, or in a company the assets of which consist principally of immovable property, may be taxed in the Contracting State in which such property is situated.]

The following paragraph 4 of Article 9 of the MLI applies to paragraph 1 of Article 13 of this Convention (only to the extent that the provisions of that paragraph relate to gains from the alienation of shares or comparable interest in a real property cooperative, or in a company the assets of which consist principally of immovable property):

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 this Convention, 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.

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 professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State. However, gains from the alienation of movable property of the kind referred to in paragraph 3 of Article 23 shall be taxable only in the Contracting State in which such movable property is taxable according to the said Article.
3. Gains from the alienation of any property other than those mentioned in paragraphs 1 and 2, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14
INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other Contracting State but only so much of it as is attributable to that fixed base.
2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, and 19, 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 within any period of twelve months;
   (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 in respect of an employment exercised aboard a ship or aircraft in international traffic may be taxed in the Contracting State of which the enterprise operating the ship or the aircraft is a resident.

Article 16
DIRECTORS' FEES

Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or a 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 entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.
2. Where income in respect of personal activities as such of an entertainer or athlete accrues not to that entertainer or athlete himself but to another person that income may, notwithstanding the provisions of Articles 7, 14, and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.
3. Notwithstanding the provisions of paragraph 1, remunerations or profits, and wages, salaries and other similar income derived by entertainers and athletes from their personal activities as such in a Contracting State shall be taxable only in the other Contracting State if their visit to the first Contracting State is supported substantially from the public funds of that other Contracting State, one of its political subdivisions or local authorities or of a statutory body thereof.
4. Notwithstanding the provisions of paragraph 2, where income in respect of personal activities as such of entertainers and athletes in a Contracting State accrues not to that entertainer or athlete himself but to another person, notwithstanding the provisions of Articles 7, 14 and 15, that income shall be taxable only in the other Contracting State if this person is supported substantially from the public funds of that other Contracting State, one of its political subdivisions or local authorities or of a statutory body thereof.

Article 18
PENSIONS

1. 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.
2. Notwithstanding the provisions of paragraph 1, social security pensions paid by a social security instrumentality of a Contracting State shall be taxable only in that Contracting State.

Article 19

GOVERNMENT SERVICE

1. (a) Remuneration, other than a pension, paid by a Contracting State or one of its political subdivisions or local authorities or by a statutory body thereof to any individual in respect of services rendered to that State or 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 recipient is a resident and also a national of that State.
2. Any pensions paid by, or out of funds created by, a Contracting State or one of its political subdivisions or local authorities or by a statutory body thereof to any individual in respect of services rendered to that State or subdivision or local authority or statutory body shall be taxable only in that State.
3. The provisions of Articles 15 and 16 shall apply to remuneration in respect of services rendered in connection with any business carried on by a Contracting State or one of its political subdivisions or a local authority or a statutory body thereof.

Article 20

STUDENTS

1. Payments 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 receives for the purpose of his maintenance, education or training shall not be taxed in that other State, provided that such payments are made to him from sources outside that other 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 provided that such services are in connection with his education or training or that the remuneration of such services is necessary to supplement the resources available to him for the purpose of his maintenance.

Article 21

TEACHERS AND RESEARCHERS

1. A teacher or a researcher who, resident of a Contracting State, visits the other Contracting State for the purpose of teaching or engaging in research shall be exempt from tax in that other Contracting State for a period not exceeding two years on remuneration in respect of such activities.
2. This Article shall not apply to income from research if such 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 Convention shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply if the recipient of the income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State professional 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 a case the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 23
CAPITAL

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

Article 24
METHOD FOR ELIMINATION OF DOUBLE TAXATION

Double taxation shall be avoided in the following manner:

1. In the case of Indonesia:
   (a) Indonesia may include in the basis upon which taxes referred to in Article 2 paragraph 3(b) are imposed, the items of income or capital which according to the provisions of this Convention may be taxed in France.
   (b) Subject to the provisions of sub-paragraph (c) below, Indonesia shall allow a reduction from the tax computed in conformity with sub-paragraph (a) equal to such part of that tax which bears the same proportion to the aforesaid tax as the part of the income or capital which is included in the basis of that tax, and may be taxed in France according to the provisions of this Convention, bears to the total income or capital which forms the basis for Indonesian tax.
   (c) Where a resident of Indonesia derives income which, in accordance with the provisions of Article 10 paragraph 2, Article 11 paragraphs 2 and 3 or Article 12 paragraph 2, may be taxed in France, Indonesia shall allow as a deduction from the Indonesian tax on the income of that person an amount equal to the tax paid in France on that income. Such deduction shall, however, not exceed that part of the Indonesian tax computed in conformity with sub-paragraph (a) which is appropriate to the income derived from France.
   (d) Where a resident of Indonesia derives gains which may be taxed in France in accordance with the provisions of Article 13, Indonesia shall allow a deduction from its tax on such gains equal to the tax paid in France.
2. In the case of France:
   (a) Income other than that referred to in sub-paragraph (b) below shall be exempt from the French taxes referred to in sub-paragraph (a) of paragraph 3 of Article 2 if the income is taxable in Indonesia under this Convention.

(b) Income referred to in Articles 10, 11, 12, 14, 16 and 17, received from Indonesia, may be taxed in France. The Indonesian tax levied on such income entitles residents of France to a tax credit corresponding to the amount of Indonesian tax levied but which shall not exceed the amount of French tax levied on such income. Such credit shall be allowed against taxes referred to in sub-paragraph (a) of paragraph 3 of Article 2, in the bases of which such income is included.

(c) Notwithstanding the provisions of sub-paragraphs (a) and (b) above, French tax is computed on income chargeable in France by virtue of this Convention at the rate appropriate to the total of the income chargeable in accordance with the French law.

(d) In the cases where Indonesian tax levied on dividends, interest or royalties is wholly relieved or reduced below the rates provided for in Article 10, paragraph 2 (a) for dividends, in Article 11, paragraph 3 for interest or Article 12, paragraph 2 for royalties, by special incentive measures under Indonesian law designed to promote economic development in Indonesia, the credit referred to in sub-paragraph (b) above shall be equal to the rate of tax provided for, as regards dividends, in Article 10, paragraph 2(a), as regards interest, in Article 11, paragraph 3, and as regards royalties, in Article 12, paragraph 2.

Article 25
NON-DISCRIMINATION

1. The nationals of a Contracting State, who are residents of one of the Contracting States, shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and 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 Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.
4. In this Article, the term "taxation" means taxes which are the subject of this Convention.

Article 26
MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to that of the Contracting State of which he is a national. This case must be presented within three years of the first notification of the action giving rise to taxation not in accordance with the Convention.
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 an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention.]

The following second sentence of paragraph 2 of Article 16 of the MLI applies to paragraph 2 of Article 26 of this Convention:

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. **[MODIFIED by paragraph 3 of Article 16 of the MLI]** [The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties arising as to the application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.]

The following first sentence of paragraph 3 of Article 16 of the MLI applies to paragraph 3 of Article 26 of this Convention:

ARTICLE 16 OF THE MLI - MUTUAL AGREEMENT PROCEDURE

The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts as to the interpretation or application of the Convention.

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 the representatives of the competent authorities of the Contracting States.
5. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this Convention and, especially, the requirements to which the residents of a Contracting State shall be subjected in order to obtain, in the other Contracting State, tax reliefs or exemptions on income referred to in Articles 10, 11 and 12, received from that other Contracting State.

Article 27
EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those (including a court or administrative body) concerned with the assessment, collection or enforcement in respect of taxes which are the subject of this Convention or with the prosecution, claims and appeals relating thereto.
2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States the obligation:
   (a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;
   (b) to supply particulars which are 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 28
DIPLOMATIC AND CONSULAR OFFICIALS

1. Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions and their personal domestic staff, of members of consular missions, or of members of permanent missions under the general rules of international law or under the provisions of special agreements.
2. Notwithstanding the provisions of Article 4, an individual who is a member of a diplomatic or consular or permanent mission of a Contracting State which is situated in the other Contracting State or in a third State shall be deemed for the purposes of this Convention to be a resident of the sending State if:
   (a) in accordance with international law, he is not taxable in the receiving State on income from sources outside that State; and
   (b) he is liable in the sending State to the same obligations in relation to tax on his total world income as are residents of that sending State.
3. This Convention shall not apply to international organisations, to organs and officials thereof and to persons who are members of a diplomatic or consular or permanent mission of a third State, being present in a Contracting State and not treated in either Contracting State as residents in respect of taxes on income and capital.

Article 29
TERRITORIAL SCOPE

1. This Convention may be extended, either in its entirety or with any necessary modifications, to the overseas territories of the French Republic which impose taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures.
2. Unless otherwise agreed by both Contracting States, the denunciation of the Convention by one of them under Article 31 shall terminate, in the manner provided for in that Article, the application of the Convention to any territory to which it has been extended under this Article.

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

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

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

Article 30
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 Convention. This Convention shall enter into force one month after the date of the later of these notifications.
2. Its provisions shall apply for the first time:
   (a) as regards taxes withheld at source on dividends, interest and royalties, to amounts payable on or after the date of entry into force of this Convention;

(b) as regards other taxes on income, to income derived during the calendar year in which the Convention entered into force or relating to the accounting period ending during the year;

(c) as regards taxes on capital, to capital for the calendar year in which the Convention entered into force.

Article 31
TERMINATION

1. This Convention shall remain in force indefinitely. However, after 1981, each Contracting State may, by giving at least six months' written notice of termination through diplomatic channels, denounce the Convention as of the end of a calendar year.
2. In such an event, its provisions shall apply for the last time:
   (a) as regards taxes withheld at source, to sums payable before or on 31 December of the calendar year for the end of which the termination has been notified;
   (b) as regards other taxes on income, to income derived during the calendar year for the end of which the termination has been notified or relating to the accounting period ending during this year;
   (c) as regards taxes on capital, to capital taxable for the calendar year for the end of which the termination has been notified.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Convention.

Done in duplicate at Jakarta, this fourteenth day of September 1979, in the French and Indonesian languages, both texts being equally authoritative.

For the Government of the Republic of Indonesia	For the Government of the French Republic

PROTOCOL

At the time of signature of the Convention between the Government of the French Republic 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 and on capital, the undersigned have agreed upon the following provision which is an integral part of this Convention.

"It is understood that profits from the operation of ships in the meaning of Article 8 can onlybe derived by an enterprise which carries out shipping business on its own account and responsibility."

In witness whereof, the undersigned have signed the present Protocol which shall have the same force and validity as if it were inserted word by word in the Convention.

Done at Jakarta, this fourteenth day of September 1979, in duplicate, in the French and Indonesian languages, both texts being equally authoritative.

For the Government of the Republic of Indonesia	For the Government of the French Republic