

fixed base, or with b) business activities referred to under c) of paragraph 1 of Article 7. In such case, the provisions of Article 7 or 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 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.

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

Article 12

ROYALTIES

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

2. However, such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 12,5 per cent of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

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

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on a business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with a) such permanent establishment or fixed base, or with b) business activities referred to under c) of paragraph 1 of Article 7. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a political subdivision, a local authority or a resident of that Contracting 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 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 Contracting 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 from the alienation of immovable property, as defined in paragraph 2 of Article 6 may be taxed in the Contracting State in which such immovable property is situated.

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

permanent establishment (alone or together with the whole enterprise) or of such fixed base, may be taxed in the other State.

3. Gains derived by a resident of a Contracting State from the alienation of aircraft or ships operated in international traffic or movable property pertaining to the operation of such aircraft or ships shall be taxable only in that State.

4. Gains from the alienation of any property other than that referred to in the preceding paragraphs 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 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 91 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 the other State but only so much of it as is attributable to that fixed base or is derived in that other State during the aforesaid period or periods.

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

Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Article 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 the other State for a period or periods not exceeding in the aggregate 183 days within any twelve month period, and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

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

Article 16

DIRECTORS' FEES

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 another 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 public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athlete 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 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 are exercised if the visit to that State is wholly or substantially supported by funds of the other Contracting State, a local authority or public institution thereof.

Article 18

GOVERNMENT SERVICES

1. (a) Remuneration, other than a pension, paid by a Contracting State, or a local authority thereof to an individual in respect of services rendered to that State authority shall be taxable 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 local authority thereof to an individual in respect of services rendered to that State 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 Article 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 local authority thereof.

Article 19

PENSIONS

1. Subject to the provisions of paragraph 2 of Article 18, any pensions or other similar remuneration paid to a resident of one of the Contracting States from a source in the other Contracting State in consideration of past employment or services in that other Contracting State and any annuity paid to such a resident from such a source may be taxed in that other State.

2. The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

Article 20

STUDENTS, PROFESSORS AND RESEARCHERS

1. Payments which a student or business apprentice who is present in a Contracting State solely for the purpose of his education or training and who is or was immediately before such

visit a resident of the other Contracting State received for the purpose of his maintenance, education or training shall not be taxed in the first-mentioned Contracting State, provided that such payments are made to him from sources outside that State.

2. A student at a university or other institution for higher education in a Contracting State, or a business apprentice who is present in the other Contracting State for a period or periods not exceeding 183 days within any twelve month period concerned and who is or was immediately before such visit a resident of the first-mentioned State, shall not be taxed in the other Contracting State in respect of remuneration for services rendered in that other State, provided that the services are in connection with his studies or training and the remuneration constitutes earning necessary for his maintenance.

3. Remuneration which a resident of a Contracting State receives for undertaking research or for teaching, during a period of temporary residence not exceeding two years, at a university, research institute or other similar establishment for higher education accredited by the Government in the other Contracting State shall not be taxable in this Contracting State.

Article 21

OTHER INCOME

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Agreement shall be taxable only in that State except that, if such income is derived from sources within the other Contracting State, it may also be taxed in that other State.

Article 22

ELIMINATION OF DOUBLE TAXATION

1. In Indonesia, double taxation will be avoided in the following manner:

Where a resident of Indonesia derives income from the Czech Republic and such income may be taxed in the Czech Republic in accordance with the provisions of this Agreement, the amount of the Czech tax payable in respect of the income shall be allowed as a credit against the Indonesian tax imposed on that resident. The amount of credit, however, shall not exceed that part of the Indonesian tax which is appropriate to such income.

2. In the Czech Republic, double taxation will be avoided in the following manner:

the Czech Republic when imposing taxes on its residents may include in the tax base upon which such taxes are imposed the items of income which according to the provisions of this Agreement may also be taxed in Indonesia but shall allow as deduction from the amount of tax computed on such a base an amount equal to the tax paid in Indonesia. Such deduction shall not, however, exceed that part of the Czech tax as computed before the deduction is given, which is appropriate to the income which, in accordance with the provisions of this Agreement 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.

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 enterprise 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 personal allowances, reliefs and reductions for tax purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Enterprise 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 of any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

4. In this Article the term "taxation" means taxes which are the subject of this Agreement.

Article 24

MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States results or will result for him in taxation not in accordance with this Agreement, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Agreement.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.
4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

Article 25

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Agreement and of the domestic laws of the Contracting States concerning taxes covered by this Agreement in so far as the taxation thereunder is in accordance with this Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities, including courts, other than those concerned with the assessment, collection, enforcement or prosecution in respect of taxes which are the subject of the Agreement.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on 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 26

DIPLOMATIC AGENTS AND CONSULAR OFFICIALS

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

Article 27

MISCELLANEOUS RULES

The provisions of this Agreement shall not be construed to restrict in any manner any exclusion, exemption, deduction, credit, or other allowance now or hereafter accorded:

(a) by the laws of Contracting State in the determination of the tax imposed by that State,

or

(b) by any other special arrangement on taxation in connection with the economic or technical cooperation between the Contracting States.

Article 28

ENTRY INTO FORCE

1. The Governments of the Contracting States shall notify to each other that the constitutional requirements for the entry into force of this Agreement have been complied with.

2. The Agreement shall enter into force on the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect:

- (a) in respect of taxes withheld at source, to amounts derived on or after 1st January in the calendar year next following that in which the Agreement enters into force;
- (b) in respect of other taxes on income, to taxes chargeable for any taxable year beginning on or after 1st January in the calendar year next following that in which the Agreement enters into force.

Article 29

TERMINATION

This Agreement shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year following after the period of five years from the date on which the Agreement enters into force.

In such event, the Agreement shall cease to have effect:

- (a) in respect of taxes withheld at source, to amounts derived on or after 1st January in the calendar year next following that in which the notice is given;
- (b) in respect of other taxes on income, to taxes chargeable for any taxable year beginning on or after 1st January in the calendar next following that in which the notice is given.

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

DONE in duplicate at Jakarta..... on the ..fourth.. day of ..October.... 19.94 in the English language.

For the Government of
the Republic of Indonesia



.....
SOESILO SOEDARMAN
MINISTER FOR FOREIGN AFFAIRS a.i.

For the Government
of the Czech Republic



.....
VACLAV KLAUS
PRIME MINISTER

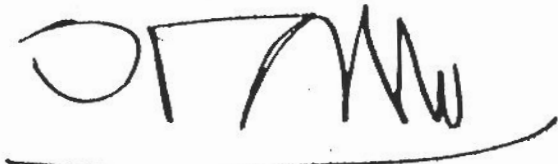
P R O T O C O L
TO THE AGREEMENT
BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF INDONESIA
AND
THE GOVERNMENT OF THE CZECH REPUBLIC
FOR THE AVOIDANCE OF DOUBLE TAXATION

In the moment of signing this Agreement the undersigned have agreed:

ad Article 7 paragraph 1 (c):

In computing the taxable profit of an enterprise according to Article 7 paragraph 1 (c) the profit from activities in the form mentioned in Article 7 paragraph (a) shall be attributable to the existing permanent establishment only when these activities meet the corresponding test for each separate project.

For the Government
of the Republic of Indonesia



.....
SOESILO SOEDARMAN
MINISTER FOR FOREIGN AFFAIRS a.i.

For the Government
of the Czech Republic



.....
VACLAV KLAUS
PRIME MINISTER