



PRESIDEN
REPUBLIK INDONESIA

KEPUTUSAN PRESIDEN REPUBLIK INDONESIA

NOMOR 160 TAHUN 1998

TENTANG

**PENGESAHAN PERSETUJUAN ANTARA PEMERINTAH REPUBLIK
INDONESIA DAN PEMERINTAH REPUBLIK TURKI TENTANG
PENGHINDARAN PAJAK BERGANDA DAN PENCEGAHAN
PENGELAKAN PAJAK ATAS PENGHASILAN
BESERTA PROTOKOL**

PRESIDEN REPUBLIK INDONESIA,

- Menimbang : a. bahwa di Jakarta, pada tanggal 25 Februari 1997 Pemerintah Republik Indonesia telah menandatangani Persetujuan antara Pemerintah Republik Indonesia dan Pemerintah Republik Turki tentang Penghindaran Pajak Berganda dan Pencegahan Pengelakan Pajak atas Penghasilan beserta Protokol, sebagai hasil perundingan antara Delegasi-delegasi Pemerintah Republik Indonesia dan Pemerintah Republik Turki;
- b. bahwa sehubungan dengan itu, dan sesuai dengan Amanat Presiden Republik Indonesia kepada Ketua Dewan Perwakilan Rakyat Nomor 2826/HK/1960 tanggal 22 Agustus 1960 tentang Pembuatan Perjanjian-perjanjian dengan Negara Lain, dipandang perlu untuk mengesahkan Persetujuan beserta Protokol tersebut dengan Keputusan Presiden;

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

MEMUTUSKAN :

Menetapkan : **KEPUTUSAN PRESIDEN TENTANG PENGESAHAN PERSETUJUAN
ANTARA PEMERINTAH REPUBLIK INDONESIA DAN PEMERINTAH
REPUBLIK TURKI TENTANG PENGHINDARAN PAJAK BERGANDA
DAN PENCEGAHAN PENGELAKAN PAJAK ATAS PENGHASILAN
BESERTA PROTOKOL.**

Pasal 1

Mengesahkan Persetujuan antara Pemerintah Republik Indonesia dan Pemerintah Republik Turki tentang Penghindaran Pajak Berganda dan Pencegahan Pengelakan Pajak atas Penghasilan beserta Protokol, yang telah ditandatangani Pemerintah Republik Indonesia di Jakarta, pada tanggal 25 Februari 1997, sebagai hasil perundingan antara Delegasi-delegasi Pemerintah Republik Indonesia dan Pemerintah Republik Turki yang salinan naskah aslinya dalam bahasa Indonesia, Turki dan Inggeris sebagaimana terlampir pada Keputusan Presiden ini.

Pasal 2

Keputusan Presiden ini mulai berlaku pada tanggal ditetapkan.

Agar ...



PRESIDEN
REPUBLIK INDONESIA

- 2 -

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

Ditetapkan di Jakarta
pada tanggal 18 September 1998
PRESIDEN REPUBLIK INDONESIA,
ttd
BACHARUDDIN JUSUF HABIBIE

Diundangkan di Jakarta
pada tanggal 18 September 1998
MENTERI NEGARA SEKRETARIS NEGARA
REPUBLIK INDONESIA
ttd
AKBAR TANDJUNG

LEMBARAN NEGARA REPUBLIK INDONESIA TAHUN 1998 NOMOR 151

**PERSETUJUAN
ANTARA
PEMERINTAH REPUBLIK INDONESIA
DAN
PEMERINTAH REPUBLIK TURKI
TENTANG
PENGHINDARAN PAJAK BERGANDA DAN PENCEGAHAN
PENGELAKAN PAJAK ATAS PENGHASILAN**

Pemerintah Republik Indonesia dan Pemerintah Republik Turki
BERHASRAT mengadakan suatu Persetujuan mengenai Penghindaran Pajak Berganda
dan Pencegahan Pengelakan pajak yang berhubungan dengan pajak atas Penghasilan,

TELAH MENYETUJUI SEBAGAI BERIKUT :

**Pasal 1
ORANG DAN BADAN YANG TERCAKUP DALAM PERSETUJUAN**

Persetujuan ini berlaku terhadap orang dan badan yang menjadi penduduk salah satu atau kedua Negara pihak pada Persetujuan.

**Pasal 2
PAJAK-PAJAK YANG DICAKUP DALAM PERSETUJUAN INI**

1. Persetujuan ini berlaku terhadap pajak-pajak atas penghasilan yang dikenakan oleh masing-masing Negara pihak pada Persetujuan, atau bagian ketatanegaraannya atau pemerintah daerahnya, tanpa memperhatikan cara pemungutan pajak-pajak tersebut.
2. Dianggap sebagai pajak-pajak atas penghasilan adalah semua pajak yang dikenakan atas seluruh penghasilan atau bagian-bagian penghasilan, termasuk pajak-pajak atas keuntungan yang diperoleh dari pemindahtempahan harta gerak atau harta tak gerak, pajak atas gaji dan upah yang dibayar oleh perusahaan.
3. Persetujuan ini harus diterapkan terhadap pajak-pajak yang berlaku sekarang ini, yaitu :
 - a) di Indonesia :
pajak penghasilan yang dikenakan berdasarkan Undang-undang Pajak Penghasilan 1984 (Undang-undang Nomor 7 Tahun 1983 sebagaimana telah diubah);
(selanjutnya disebut sebagai pajak Indonesia).
 - b) di Turki :
 - i) pajak penghasilan;
 - ii) pajak penghasilan atas badan;
 - iii) pungutan tambahan atas pajak penghasilan dan pajak penghasilan badan;
(selanjutnya disebut sebagai pajak Turki);
4. Persetujuan ini akan berlaku pula terhadap setiap pajak yang serupa atau pada hakekatnya sama yang dikenakan setelah tanggal penandatanganan Persetujuan ini sebagai tambahan terhadap, atau sebagai pengganti dari pajak-pajak yang berlaku sekarang. Pejabat-pejabat yang berwenang dari kedua Negara pihak pada Persetujuan harus saling memberitahukan satu sama lain mengenai setiap perubahan-perubahan penting yang terjadi dalam perundang-undangan perpajakan mereka.

Pasal 3
PENGERTIAN-PENGERTIAN UMUM

1. Kecuali jika dari hubungan kalimatnya harus diartikan lain, yang dimaksud dalam Persetujuan ini dengan :
 - a) i) Istilah Indonesia meliputi wilayah Republik Indonesia dan daerah sekitarnya dimana Republik Indonesia memiliki kedaulatan, hak-hak kedaulatan atau yurisdiksi sesuai dengan hukum internasional;
 - ii) Istilah Turki berarti wilayah Turki, laut wilayah, demikian juga wilayah perairan dimana Turki memiliki jurisdiksi atau hak-hak kedaulatan untuk tujuan eksplorasi, eksploitasi, perlindungan dan pengelolaan sumber alam, menurut hukum internasional.
 - b) istilah Negara pihak pada Persetujuan dan Negara pihak pada Persetujuan lainnya berarti Indonesia atau Turki, tergantung pada hubungan kalimatnya;
 - c) Istilah pajak berarti setiap pajak yang dicakup dalam Pasal 2 dari Persetujuan ini;
 - d) istilah orang/badan meliputi orang pribadi, perseroan dan setiap kumpulan dari orang-orang dan atau badan-badan;
 - e) istilah perseroan berarti setiap badan hukum atau setiap entitas yang untuk tujuan pemungutan pajak diperlakukan sebagai suatu badan hukum;
 - f) istilah kantor yang terdaftar berarti kantor pusat menurut hukum yang didaftarkan sesuai Undang-undang Hukum Dagang Turki atau tempat didirikan menurut Undang-undang Indonesia.
 - g) istilah warganegara berarti :
 - i) setiap pribadi yang menjadi warganegara dari suatu Negara pihak pada Persetujuan;
 - ii) setiap badan hukum, persekutuan dan asosiasi yang mendapatkan statusnya dari peraturan perundang-undangan yang berlaku disuatu Negara pihak pada Persetujuan;
 - h) istilah perusahaan dari suatu Negara pihak pada Persetujuan dan perusahaan dari Negara pihak pada Persetujuan lainnya berarti berturut-turut suatu perusahaan yang dijalankan oleh penduduk dari suatu Negara pihak pada Persetujuan dan suatu perusahaan yang dijalankan oleh penduduk dari Negara pihak pada Persetujuan lainnya;
 - i) istilah pejabat yang berwenang berarti :
 - di Indonesia, Menteri Keuangan atau Wakilnya yang sah; dan
 - di Turki, Menteri Keuangan atau wakilnya yang sah;
 - j) istilah lalu lintas internasional berarti setiap pengangkutan oleh kapal laut atau pesawat udara yang dilakukan oleh penduduk dari suatu Negara pihak pada Persetujuan, kecuali jika kapal atau pesawat udara itu semata-mata dioperasikan antara tempat-tempat di Negara pihak lpada Persetujuan lainnya.
2. Sehubungan dengan penerapan Persetujuan ini oleh salah satu Negara pihak pada Persetujuan, setiap istilah yang tidak dirumuskan mempunyai arti menurut perundang-undangan Negara itu sepanjang mengenai pajak-pajak yang diatur dalam Persetujuan ini, kecuali jika dari hubungan kalimatnya harus diartikan lain.

Pasal 4
PENDUDUK

1. Untuk kepentingan Persetujuan ini, istilah penduduk suatu Negara pihak pada Persetujuan berarti setiap orang dan badan, yang menurut perundang-undangan Negara tersebut dapat dikenakan pajak di Negara itu berdasarkan domisilinya, tempat kediamannya, tempat terdaftarnya, kedudukan kantor pusatnya, tempat kedudukan manajemennya ataupun atas dasar lainnya yang sifatnya serupa.
2. Jika seseorang menurut ketentuan-ketentuan pada ayat 1 menjadi penduduk di kedua Negara pihak pada Persetujuan, maka statusnya akan ditetukan sebagai berikut :
 - (a) ia akan dianggap sebagai penduduk Negara di mana ia mempunyai tempat tinggal tetap yang tersedia baginya; apabila ia mempunyai tempat tinggal tetap yang tersedia di kedua Negara, ia akan dianggap sebagai penduduk Negara di mana terdapat hubungan-hubungan pribadi dan ekonomi yang lebih erat (pusat kepentingan-kepentingan pokok);
 - (b) jika Negara di mana pusat kepentingan-kepentingan pokoknya tidak dapat ditentukan, atau jika ia tidak mempunyai tempat tinggal tetap yang tersedia baginya di salah satu Negara, maka ia akan dianggap sebagai penduduk Negara di mana ia biasanya berdiam;
 - (c) jika ia mempunyai tempat kebiasaan berdiam di kedua Negara atau sama sekali tidak mempunyainya di kedua Negara tersebut, maka ia kan dianggap sebagai penduduk Negara dimana ia menjadi warganegara;
 - (d) Jika ia menjadi warga negara dari kedua Negara atau sama sekali tidak mempunyainya di kedua Negara maka pejabat-pejabat yang berwenang dari kedua Negara pihak pada Persetujuan akan menyelesaikan masalah tersebut berdasarkan persetujuan bersama.
3. Apabila berdasarkan ketentuan-ketentuan ayat 1, suatu badan mempunyai tempat kedudukan di kedua Negara pihak pada persetujuan, maka pejabat berwenang dari Negara pihak pada Persetujuan akan menyelesaikan masalahnya berdasarkan persetujuan bersama.

Pasal 5 BENTUK USAHA TETAP

1. Untuk kepentingan Persetujuan ini istilah bentuk usaha tetap berarti suatu tempat usaha tetap di mana seluruh atau sebagian usaha dari suatu perusahaan dijalankan.
2. Istilah bentuk usaha tetap terutama meliputi :
 - a) suatu tempat kedudukan manajemen;
 - b) suatu cabang;
 - c) suatu kantor;
 - d) suatu pabrik;
 - e) suatu bengkel; dan
 - f) suatu tambang, suatu sumur minyak atau gas, suatu penggalian atau tempat pengambilan sumber daya alam.
3. Istilah bentuk usaha tetap juga meliputi :
 - (a) suatu bangunan atau suatu proyek konstruksi, perakitan atau instalasi atau kegiatan pengawasan yang ada hubungan dengan proyek tersebut, tetapi hanya apabila bangunan, proyek atau kegiatan tersebut berjalan di satu Negara pihak pada Persetujuan untuk masa lebih dari enam bulan;
 - (b) Pemberian jasa termasuk jasa konsultan yang dilakukan oleh suatu perusahaan melalui karyawannya atau orang lain yang dipekerjakan oleh perusahaan itu untuk tujuan tersebut, tetapi hanya apabila kegiatan tersebut

berlangsung (untuk proyek yang sama atau ada kaitannya) dalam negara untuk masa atau masa-masa yang berjumlah lebih dari 183 hari dalam jangka waktu dua belas bulan.

4. Menyimpang dari ketentuan-ketentuan sebelumnya dari Pasal ini, istilah bentuk usaha tetap tidak meliputi :
 - (a) penggunaan fasilitas-fasilitas semata-mata dengan maksud untuk menyimpan atau memamerkan barang-barang atau barang dagangan milik perusahaan;
 - b) pengurusan suatu persediaan barang-barang atau barang dagangan milik perusahaan semata-mata dengan maksud untuk disimpan atau dipamerkan;
 - c) pengurusan suatu persediaan barang-barang atau barang dagangan milik perusahaan semata-mata dengan maksud untuk diolah oleh perusahaan lain;
 - d) pengurusan suatu tempat tertentu semata-mata dengan maksud untuk pembelian barang-barang atau barang dagangan atau untuk mengumpulkan informasi bagi keperluan perusahaan;
 - e) pengurusan atau tempat tertentu semata-mata dengan maksud untuk tujuan lainnya yang bersifat persiapan atau penunjang untuk kepentingan perusahaan;
 - f) pengurusan suatu tempat tertentu semata-mata ditujukan untuk melakukan gabungan kegiatan-kegiatan seperti disebutkan pada sub-ayat (a) sampai dengan sub ayat (e), asalkan hasil penggabungan kegiatan-kegiatan tersebut bersifat persiapan atau penunjang.
5. Menyimpang dari ketentuan-ketentuan ayat 1 dan 2, apabila orang atau badan, kecuali agen yang bertindak bebas sebagaimana berlaku ayat 6, bertindak di suatu Negara pihak pada Persetujuan atas nama perusahaan yang berkedudukan di Negara lainnya pada Persetujuan, maka perusahaan tersebut dianggap memiliki bentuk usaha tetap di Negara yang disebutkan pertama atas kegiatan-kegiatan yang dilakukan oleh orang atau badan tersebut, jika ia :
 - a) mempunyai dan biasa melakukan wewenang untuk menutup kontra- kontra atas nama perusahaan tersebut, kecuali kegiatan itu hanya terbatas pada apa yang diatur dalam ayat 4, yang meskipun dilakukan melalui suatu tempat usaha tetap, tempat tersebut bukan merupakan bentuk usaha tetap sesuai dengan ketentuan ayat tersebut; atau
 - b) tidak mempunyai wewenang seperti itu, tetapi biasa melakukan pengurusan persediaan barang-barang atau barang dagangan di Negara yang disebut pertama di mana secara teratur ia menyerahkan barang-barang atas nama perusahaan tersebut;
6. Suatu perusahaan tidak akan dianggap mempunyai suatu bentuk usaha tetap di Negara pihak pada Persetujuan hanya semata-mata karena perusahaan itu menjalankan usaha di Negara itu melalui makelar, komisioner umum, atau agen lainnya yang bertindak bebas, sepanjang orang atau badan tersebut bertindak dalam rangka kegiatan usahanya yang lazim.
7. Jika suatu perseroan yang berkedudukan di suatu Negara pihak pada Persetujuan menguasai atau dikuasai oleh perseroan yang berkedudukan di Negara pihak pada Persetujuan lainnya ataupun menjalankan usaha di Negara pihak lainnya itu (baik melalui suatu bentuk usaha tetap ataupun dengan suatu cara lain), maka hal itu tidak dengan sendirinya akan berakibat bahwa salah satu dari perseroan itu merupakan bentuk usaha tetap dari yang lainnya.

Pasal 6 PENGHASILAN DARI HARTA TAK GERAK

1. Penghasilan yang diperoleh seorang penduduk dari suatu Negara pihak pada

Persetujuan dari harta tak gerak (termasuk penghasilan yang diperoleh dari pertanian atau perhutanan) yang berada di Negara pihak pada Persetujuan lainnya dapat dikenakan pajak di Negara lain tersebut.

2. Istilah harta tak gerak akan mempunyai arti sesuai dengan perundang-undangan Negara pihak pada Persetujuan di mana harta yang bersangkutan berada. Istilah tersebut meliputi juga benda-benda ikutan dari harta tak gerak, ternak dan peralatan yang dipergunakan dalam usaha pertanian (termasuk pemeliharaan dan pengembangan ikan) dan perhutanan, hak-hak terhadap mana berlaku ketentuan-ketentuan dalam hukum umum mengenai pemilikan atas lahan, hak memungut hasil atas harta tak gerak, serta hak atas pembayaran-pembayaran tetap atau variabel sebagai balas jasa untuk pengerjaan, atau hak untuk mengerjakan kandungan mineral, sumber-sumber dan sumber-sumber daya alam lainnya; kapal laut, perahu dan pesawat udara tidak dianggap sebagai harta tak gerak.
3. Ketentuan-ketentuan pada ayat 1 berlaku juga terhadap penghasilan yang diperoleh dari penggunaan secara langsung, dari penyewaan, atau dari penggunaan dengan cara lain atas harta tak gerak.
4. Ketentuan-ketentuan dalam ayat-ayat 1 dan 3 berlaku juga terhadap penghasilan dari harta tak gerak suatu perusahaan dan terhadap penghasilan dari harta tak gerak yang digunakan dalam menjalankan pekerjaan bebas.

Pasal 7 LABA USAHA

1. Keuntungan suatu perusahaan dari Negara pihak pada Persetujuan hanya akan dikenakan pajak di Negara itu kecuali jika perusahaan itu menjalankan usaha di Negara pihak pada Persetujuan lainnya melalui suatu bentuk usaha tetap. Apabila perusahaan tersebut menjalankan usahanya sebagai dimaksud di atas, maka laba perusahaan itu dapat dikenakan pajak di negara lainnya tetapi hanya atas bagian laba yang berasal dari bentuk usaha tetap tersebut;
2. Dengan memperhatikan ketentuan-ketentuan ayat 3, jika suatu perusahaan dari suatu Negara pihak pada Persetujuan menjalankan usaha di Negara pihak pada Persetujuan lainnya melalui suatu bentuk usaha tetap yang berada di sana, maka yang akan diperhitungkan sebagai laba bentuk usaha tetap itu oleh masing-masing negara ialah laba yang diperolehnya seandainya bentuk usaha tetap tersebut merupakan suatu perusahaan yang terpisah dan bertindak bebas yang melakukan kegiatan-kegiatan yang sama atau serupa, dalam keadaan yang sama atau serupa, dan mengadakan hubungan yang sepenuhnya bebas dengan perusahaan yang memiliki bentuk usaha tetap itu.
3. Dalam menentukan besarnya laba suatu bentuk usaha tetap, dapat dikurangkan biaya-biaya yang dikeluarkan untuk kepentingan usaha dari bentuk usaha tetap itu termasuk biaya-biaya pimpinan dan biaya-biaya administrasi umum baik yang dikeluarkan di Negara dimana bentuk usaha tetap itu berada ataupun di tempat lain. Namun demikian tidak diperkenankan untuk dikurangkan ialah pembebanan biaya dan kerugian dari kantor pusat atau bentuk usaha tetap lainnya yang berada di luar negeri dan sebaliknya pembayaran oleh bentuk usaha tetap kepada kantor pusat dari perusahaan atau bentuk usaha tetap lainnya milik kantor pusat, berupa royalti, bunga, komisi atau pembayaran sejenis lainnya.
4. Tidak akan dianggap sebagai laba dari suatu bentuk usaha tetap dari kegiatan yang semata-mata melakukan pembelian barang-barang atau barang dagangan untuk perusahaan.
5. Jika dalam jumlah laba termasuk bagian-bagian penghasilan yang diatur secara

tersendiri pada pasal-pasal lain dalam Persetujuan ini, maka ketentuan pasal-pasal tersebut tidak akan terpengaruh oleh ketentuan-ketentuan pasal ini.

Pasal 8
PENGANGKUTAN LAUT DAN UDARA

1. Keuntungan yang diperoleh perusahaan dari Negara pihak pada Persetujuan dari pengoperasian kapal-kapal atau pesawat udara di jalur lalu lintas internasional hanya akan dikenakan pajak di Negara itu.
2. Untuk keperluan Pasal ini, keuntungan yang diperoleh suatu perusahaan dari suatu Negara pihak pada Persetujuan dari pengoperasian kapal-kapal atau pesawat udara di jalur lalu lintas internasional akan termasuk pula keuntungan dalam arti luas yang diperoleh dari penggunaan atau penyewaan kontainer-kontainer, apabila keuntungan tersebut bersifat pelengkap dalam kaitannya dengan keuntungan yang dimaksud dalam ayat 1 berlaku.
3. Ketentuan-ketentuan ayat 1 berlaku pula terhadap keuntungan dari penyertaan dalam suatu gabungan perusahaan, suatu usaha bersama atau dari suatu perwakilan untuk operasi internasional.

Pasal 9
**PERUSAHAAN-PERUSAHAAN YANG MEMPUNYAI
HUBUNGAN ISTIMEWA**

1. Apabila
 - (a) suatu perusahaan dari suatu Negara pihak pada Persetujuan baik secara langsung maupun tidak langsung turut serta dalam manajemen, pengawasan atau modal suatu perusahaan di Negara pihak lainnya pada Persetujuan, atau
 - (b) orang atau badan yang sama baik secara langsung maupun tidak langsung turut serta dalam manajemen, pengawasan atau modal suatu perusahaan dari Negara pihak pada Persetujuan dan suatu perusahaan dari Negara pihak pada Persetujuan lainnya.
dan dalam kedua hal itu antara kedua perusahaan dimaksud dalam hubungan dagangnya atau hubungan keuangannya diadakan atau diterapkan syarat-syarat yang menyimpang dari yang lazimnya berlaku antara perusahaan-perusahaan yang sama sekali bebas atau sama lain, maka setiap laba yang seharusnya diterima oleh salah satu perusahaan jika syarat-syarat itu tidak ada, namun tidak diterimanya karena adanya syarat-syarat tersebut, dapat ditambahkan pada laba perusahaan itu dan dikenakan pajak.
2. Apabila suatu Negara pihak pada Persetujuan melakukan pembetulan atas laba suatu perusahaan di negara itu dan dikenakan pajak sedang bagian laba yang dibetulkan itu adalah juga merupakan laba perusahaan yang telah dikenakan pajak di Negara pihak pada Persetujuan lainnya dan laba tersebut adalah laba yang merupakan hak negara yang disebut pertama yang memang seharusnya diperoleh perusahaan di Negara yang disebut pertama seandainya berdasarkan syarat-syarat yang dibuat antara kedua perusahaan yang sepenuhnya bebas. Negara pihak pada Persetujuan lainnya akan melakukan penyesuaian-penyesuaian atas jumlah laba yang dikenakan pajak dari perusahaan di Negara pihak pada Persetujuan lainnya tersebut, dimana Negara lain itu mempertimbangkan membentarkan penyesuaian. Dalam melakukan penyesuaian-penyesuaian itu diharuskan untuk memperhatikan ketentuan-ketentuan lain dalam persetujuan ini dan apabila dianggap perlu pejabat-pejabat yang berwenang dari kedua Negara saling berkonsultasi. Namun

demikian, dalam keadaan tertentu, suatu negara pihak pada Persetujuan tidak akan melakukan pembetulan laba perusahaan setelah batas waktu yang diberikan oleh undang-undang masing-masing negara dilampaui.

Pasal 10
DIVIDEN

1. Dividen yang dibayarkan oleh suatu perseroan yang berkedudukan di suatu Negara pihak pada Persetujuan kepada penduduk Negara pihak pada Persetujuan lainnya dapat dikenakan pajak di Negara lain tersebut.
2. Namun demikian dividen itu dapat juga dikenakan pajak di Negara pihak pada Persetujuan di mana perseroan yang membayarkan dividen tersebut berkedudukan dan sesuai dengan perundang-undangan Negara tersebut, akan tetapi apabila penerima dividen adalah pemilik saham yang menikmati dividen itu, maka pajak yang dikenakan tidak akan melebihi :
 - (a) 10 persen dari jumlah kotor dividen apabila pemilik saham yang menikmati dividen tersebut adalah perseroan (tidak termasuk persekutuan) yang memegang secara langsung paling sedikit 25 persen dari modal perseroan yang membayarkan dividen;
 - (b) 15 persen dari jumlah kotor dividen untuk hal lainnya.
3. Istilah dividen sebagaimana digunakan dalam pasal ini berarti penghasilan dari saham-saham, saham-saham jouissance atau hak Jouissance, saham-saham pemilikan atau hak-hak lainnya yang bukan merupakan surat tagihan piutang, yang berhak atas pembagian laba, maupun penghasilan lainnya dari hak-hak perseroan yang oleh undang-undang perpajakan Negara di mana perseroan yang membagikan dividen itu berkedudukan, dalam pengenaan pajaknya diperlakukan sama dengan penghasilan dari saham-saham., dan penghasilan yang diperoleh dari dana investasi dan investment trust.
4. Keuntungan dari suatu perusahaan dari Negara pihak pada Persetujuan yang menjalankan usaha di negara pihak pada Persetujuan lainnya melalui bentuk usaha tetap yang berada disana, setelah dikenakan pajak menurut Pasal 7, dikenakan pajak atas jumlah sisa di negara pihak pada Persetujuan dimana bentuk usaha tetap berada dan sesuai dengan ayat 2 dari Pasal ini.
5. Ketentuan-ketentuan ayat 1 dan 2 tidak akan berlaku apabila pemilik saham yang menikmati dividen, yang merupakan penduduk dari suatu Negara pihak pada Persetujuan, melakukan kegiatan usaha di Negara pihak lainnya pada Persetujuan lainnya, dimana perseroan yang membayarkan dividen itu berkedudukan, melalui suatu bentuk usaha tetap yang berada di Indonesia, atau dalam hal penduduk Turki menjalankan pekerjaan bebas di Indonesia melalui suatu tempat tertentu yang berada disana dan pemilikan saham-saham yang menghasilkan dividen itu mempunyai hubungan yang efektif dengan bentuk usaha tetap atau tempat tertentu itu. Dalam hal demikian, tergantung pada masalahnya berlaku ketentuan-ketentuan Pasal 7 atau Pasal 14.

Pasal 11
BUNGA

1. Bunga yang berasal dari suatu Negara pihak pada Persetujuan dan dibayarkan kepada penduduk Negara pihak pada Persetujuan lainnya dapat dikenakan pajak di

Negara lain tersebut.

2. Namun demikian, bunga tersebut dapat juga dikenakan pajak di Negara pihak pada Persetujuan tempat bunga itu berasal, dan sesuai dengan perundang-undangan Negara tersebut, akan tetapi apabila penerima bunga dan pemilik bunga adalah pemberi pinjaman yang menikmati bunga itu, maka pajak yang dikenakan tidak akan melebihi 10 persen dari jumlah kotor bunga. Pejabat yang berwenang dari Negara pihak pada Persetujuan dengan persetujuan bersama akan menyelesaikan tatacara aplikasi dari pembatasan ini.
3. Menyimpang dari ketentuan-ketentuan ayat 2, bunga yang berasal dari :
 - a) Indonesia dan dibayarkan pada Pemerintah Turki atau Bank Sentral Turki (Turkiye Cumhuriyet Merkez Bankasi) or to the Turkish Eximbank (Turkiye ihracat Kredi Bankasi A.S.) akan dibebaskan dari pajak Indonesia;
 - b) Turki dan dibayarkan pada Pemerintah Indonesia atau Bank Indonesia (Bank Sentral) akan dibebaskan dari pajak Turki.
4. Istilah bunga yang digunakan dalam Pasal ini berarti penghasilan dari semua jenis tagihan hutang, baik yang dijamin dengan hipotik maupun tidak dan baik yang mempunyai hak atas pembagian laba maupun tidak dan khususnya penghasilan dari surat-surat perbendaharaan Negara dan surat-surat obligasi atau surat-surat hutang, termasuk bunga atas pembayaran untuk penjualan dimuka.
5. Ketentuan-ketentuan ayat 1 dan 2 tidak akan berlaku apabila pemberi pinjaman yang menikmati bunga tadi berkedudukan di suatu Negara pihak pada Persetujuan lainnya dimana tempat bunga itu berasal, melalui suatu bentuk usaha tetap yang berada di sana, atau dalam hal seorang penduduk Turki menjalankan pekerjaan bebas di Indonesia melalui suatu tempat usaha tetap yang berada di Indonesia, dan tagihan hutang yang menghasilkan bunga itu mempunyai hubungan yang efektif dengan bentuk usaha tetap atau tempat tetap itu. Dalam hal demikian, tergantung pada masalahnya, berlaku ketentuan-ketentuan Pasal 7 atau Pasal 14.
6. Bunga dianggap berasal dari suatu Negara pihak pada Persetujuan apabila yang membayarkan bunga adalah penduduk Negara itu sendiri, bagian ketatanegaraannya, pemerintah daerahnya, atau penduduk Negara tersebut. Namun demikian, apabila orang atau badan yang membayar bunga itu, tanpa memandang apakah ia penduduk suatu Negara pihak pada Persetujuan atau tidak, mempunyai bentuk usaha tetap atau tempat tetap di suatu Negara pihak pada Persetujuan di mana bunga yang dibayarkan menjadi beban bentuk usaha tetap atau tempat tetap tersebut, maka bunga itu akan dianggap berasal dari Negara pihak pada Persetujuan di mana bentuk usaha tetap atau tempat tetap itu berada.
7. Jika karena alasan adanya hubungan istimewa antara pembayar bunga dengan pemilik yang menikmati bunga atau antara keduanya dengan orang atau badan lain dengan memperhatikan besarnya tagihan hutang yang menghasilkan bunga itu, jumlah bunga yang dibayarkan melebihi jumlah yang seharusnya disetujui antara pembayar dan pemilik yang menikmati bunga seandainya hubungan istimewa itu tidak ada, maka ketentuan-ketentuan Pasal ini akan berlaku hanya atas jumlah yang telah disetujui tersebut. Dalam hal demikian, jumlah kelebihan pembayaran tersebut akan tetap dikenakan pajak sesuai dengan perundang-undangan masing-masing Negara pihak pada Persetujuan, dengan memperhatikan ketentuan-ketentuan lainnya dalam Persetujuan ini.

1. Royalti yang berasal dari Negara pihak pada Persetujuan dan dibayarkan kepada penduduk dari suatu Negara pihak pada Persetujuan lainnya dapat dikenakan pajak di Negara lain tersebut.
2. Namun demikian, royalti tersebut dapat juga dapat dikenakan pajak di Negara pihak pada Persetujuan dimana royalti berasal, dan sesuai dengan perundang-undangan Negara itu, tetapi apabila penerima royalti adalah pemilik yang berhak menikmati royalti pajak yang dikenakan tidak akan melebihi 10 % dari jumlah bruto royalti. Pejabat yang berwenang dari Negara pihak pada Persetujuan dengan persetujuan bersama menyelesaikan tatacara aplikasi dari pembatasan ini.
3. Istilah Royalti yang digunakan dalam Pasal ini berarti segala bentuk pembayaran yang diterima sebagai balas jasa atas penggunaan, atau hak menggunakan setiap hak cipta kesusasteraan, kesenian atau karya ilmiah, termasuk film sinematografi dan rekaman untuk siaran radio dan televisi, paten, merk dagang, pada atau model, rencana rumus rahasia atau cara pengolahan atau keterangan mengenai pengalaman dibidang industri, perdagangan atau ilmu pengetahuan atau penggunaan atau hak menggunakan perlengkapan-perlengkapan industri, perdagangan atau ilmu pengetahuan.
4. Ketentuan-ketentuan ayat 1 dan ayat 2 tidak berlaku, apabila pihak yang memiliki hak menikmati, yang merupakan penduduk suatu Negara pihak pada Persetujuan menjalankan usaha di Negara pihak pada Persetujuan lainnya di mana royalti berasal, melalui suatu bentuk usaha tetap yang berada disana, atau dalam hal seorang penduduk Turki melakukan suatu pekerjaan bebas di Negara Indonesia melalui suatu tempat tetap yang berada di Indonesia, dan hak atau milik yang menghasilkan royalti itu mempunyai hubungan yang efektif dengan bentuk usaha tetap atau tempat tetap itu. Dalam hal demikian, tergantung pada masalahnya, berlaku ketentuan-ketentuan Pasal 7 atau Pasal 14.
5. Royalti dapat dianggap berasal dari Negara pihak pada Persetujuan apabila pembayarannya adalah Negara itu sendiri, bagian ketatanegaraan, pemerintah daerah, atau penduduk dari Negara tersebut. Namun demikian, apabila orang atau badan yang membayarkan royalti itu, tanpa memandang apakah ia penduduk suatu Negara pihak pada Persetujuan atau bukan, memiliki bentuk usaha tetap atau tempat tetap di suatu Negara pihak pada Persetujuan di mana hak atau milik yang menghasilkan royalti itu mempunyai hubungan efektif dan royalti tersebut menjadi beban bentuk usaha tetap atau tempat tetap tersebut, maka royalti itu dianggap berasal dari Negara di mana bentuk usaha tetap atau tempat tetap itu berada.
6. Jika karena alasan adanya hubungan istimewa antara pembayar dengan pemilik hak yang menikmati atau antara kedua-duanya dengan orang/badan lain, berkenaan dengan penggunaan hak atau keterangan yang mengakibatkan pembayaran itu, jumlah royalti yang dibayarkan itu melebihi jumlah yang seharusnya disepakati oleh pembayar dan pemilik hak seandainya tidak ada hubungan istimewa, maka ketentuan-ketentuan Pasal ini hanya akan berlaku terhadap jumlah yang disebut terakhir. Dalam hal demikian, jumlah kelebihan pembayaran tersebut akan tetap dikenakan pajak sesuai dengan perundang-undangan masing-masing Negara pihak pada Persetujuan perundang-undangan masing-masing Negara pidak pada Persetujuan dengan memperhatikan ketentuan-ketentuan lainnya dalam Persetujuan ini.

1. Penghasilan yang diperoleh penduduk suatu Negara pihak pada Persetujuan dari pemindahtanganan harta tak gerak, sebagaimana dimaksud dalam Pasal 6 dan terletak di negara pihak pada Persetujuan lainnya, dapat dikenakan pajak di Negara pihak lainnya tersebut.
2. Penghasilan dari pemindahtanganan harta gerak yang merupakan bagian kekayaan suatu bentuk usaha tetap yang dimiliki oleh perusahaan dari suatu Negara pihak pada Persetujuan di negara pihak pada Persetujuan lainnya atau dari harta gerak yang merupakan bagian dari suatu tempat tetap yang tersedia bagi penduduk suatu Negara pihak pada Persetujuan di Negara pihak pada Persetujuan lainnya untuk maskud melakukan pekerjaan bebas, termasuk keuntungan dari pemindahtanganan bentuk usaha tetap itu (tersendiri atau beserta keseluruhan perusahaan) atau tempat tetap, dapat dikenakan pajak di negara pihak lainnya tersebut.
3. Keuntungan yang diperoleh seorang penduduk dari Negara pihak pada Persetujuan dari pemindahtanganan kapal-kapal atau pesawat udara yang beroperasi di lalulintas internasional atau harta gerak yang ada hubungannya dengan pengoperasian kapal-kapal atau pesawat udara hanya akan dikenakan pajak di negara itu.
4. Keuntungan dari pemindahtanganan harta lainnya, kecuali yang disebut pada ayat-ayat 1, 2 dan 3, hanya akan dikenakan pajak di Negara pihak pada Persetujuan dimana orang/badan yang memindahkan harta itu berkedudukan Namun demikian, keuntungan dari pemindahtanganan harta yang disebutkan dalam kalimat sebelumnya dan diperoleh dari Negara pihak pada Persetujuan lainnya, akan dikenakan pajak di Negara pihak pada Persetujuan lainnya, apabila masa perolehan dan pemindahtanganan tidak melebihi satu tahun.

Pasal 14 PEKERJAAN BEBAS

1. Penghasilan yang diperoleh penduduk dari suatu Negara pihak pada Persetujuan sehubungan dengan jasa-jasa profesional atau pekerjaan bebas lainnya hanya akan dikenakan pajak di Negara itu kecuali apabila ia mempunyai suatu tempat tetap yang tersedia secara teratur baginya untuk menjalankan kegiatan-kegiatan di negara pihak pada Persetujuan lainnya itu atau ia berada di Negara pihak lainnya itu selama suatu masa tau masa-masa yang melebihi 183 hari dalam masa dua belas bulan. Apabila ia mempunyai tempat tetap tersebut atau berada di negara pihak lainnya itu selama masa atau masa-masa tersebut di atas, maka penghasilan tersebut dapat dikenakan pada di negara pihak lainnya itu tetapi hanya sepanjang penghasilan itu dianggap berasal dari tempat tetap tersebut atau diperoleh di negara lain itu atau selama masa atau masa-masa tersebut di atas.
2. Istilah jasa-jasa profesional terutama meliputi kegiatan-kegiatan di bidang ilmu pengetahuan, kesusasteraan, kesenian, pendidikan atau pengajaran yang dilakukan secara independen, demikian juga pekerjaan-pekerjaan bebas yang dilakukan oleh para dokter, ahli hukum, ahli teknik, arsitek, dokter gigi, dan para akuntan.

Pasal 15 PENGHASILAN DALAM HUBUNGAN KERJA

1. Dengan memperhatikan ketentuan-ketentuan Pasal-pasal 16, 18, 19, dan 21 gaji, upah dan imbalan lainnya yang serupa yang diperoleh penduduk suatu Negara pihak pada Persetujuan karena pekerjaan dalam hubungan kerja, hanya akan

dikenakan pajak di Negara itu, kecuali pekerjaan tersebut dilakukan di Negara pihak pada Persetujuan lainnya. Dalam hal demikian, maka imbalan yang diterima dari pekerjaan dimaksud dapat dikenakan pajak di Negara pihak lainnya itu.

2. Menyimpang dari ketentuan-ketentuan ayat 1, imbalan yang diterima atau diperoleh penduduk dari suatu Negara pihak pada Persetujuan dari pekerjaan yang dilakukan di Negara pihak lainnya pada Persetujuan, hanya akan dikenakan pajak di Negara yang disebut pertama apabila :
 - (a) penerima imbalan berada di Negara pihak lainnya itu dalam suatu masa atau masa-masa yang jumlahnya tidak melebihi 183 hari dalam masa dua belas bulan; dan
 - (b) imbalan itu dibayarkan oleh, atau atas nama pemberi kerja yang bukan merupakan penduduk Negara pihak lainnya tersebut; dan
 - (c) imbalan itu tidak menjadi beban bentuk usaha tetap atau tempat usaha tetap yang dimiliki oleh pemberi kerja di Negara pihak lain tersebut.
3. Menyimpang dari ketentuan-ketentuan sebelumnya dalam Pasal ini, imbalan yang diperoleh karena pekerjaan yang dilakukan di atas kapal laut atau pesawat udara yang dioperasikan dalam jalur lalulintas internasional oleh suatu perusahaan dari satu Negara pihak pada Persetujuan hanya akan dikenakan pajak di Negara tersebut.

Pasal 16 IMBALAN PARA DIREKTUR

Imbalan pada direktur dan pembayaran-pembayaran serupa lainnya yang diperoleh penduduk Negara pihak pada Persetujuan dalam kedudukannya sebagai anggota dewan direktur suatu perseroan dari perusahaan yang berkedudukan di suatu Negara pihak lainnya pada Persetujuan dapat dikenakan pajak di Negara pihak lainnya tersebut.

Pasal 17 PARA ARTIS DAN ATLIT

1. Menyimpang dari ketentuan Pasal 14 dan 15, penghasilan yang diperoleh penduduk dari Negara pihak pada Persetujuan sebagai artis seperti artis teater, film, radio atau televisi atau pemain musik atau sebagai atlit, dari kegiatan-kegiatan perseorangannya yang dilakukan di Negara pihak pada Persetujuan lainnya dapat dikenakan pajak di Negara pihak pada Persetujuan lainnya tersebut.
2. Apabila penghasilan sehubungan dengan kegiatan-kegiatan perseorangan yang dilakukan oleh artis dan atlit tersebut diterima bukan oleh seniman atau atlit itu sendiri tetapi oleh orang atau badan lain, menyimpang dari ketentuan-ketentuan Pasal 7, 14 dan 15, maka penghasilan tersebut dapat dikenakan pajak di Negara pihak pada Persetujuan dimana kegiatan-kegiatan seniman atau olahragawan itu dilakukan.
3. Penghasilan yang diterima oleh seniman atau olahragawan dari kegiatan yang dilakukan di suatu Negara pihak pada Persetujuan akan dibebaskan dari pengenaan pajak di negara itu, apabila kunjungan ke Negara itu adalah dibiayai seluruhnya atau sebagian besar oleh dana publik dari Negara pihak pada Persetujuan lainnya, bagian ketatanegaraan atau pemerintah daerahnya.

PASAL 18 PENSIUN DAN TUNJANGAN HARI TUA

1. Dengan memperhatikan ketentuan-ketentuan ayat 2 dari Pasal 19, pensiun atau imbalan sejenis lainnya yang dibayarkan kepada penduduk dari suatu Negara pihak pada Persetujuan yang bersumber dari Negara pihak pada Persetujuan lainnya sehubungan dengan pekerjaan atau jasa-jasa dalam hubungan kerja di Negara pihak pada Persetujuan lainnya di masa lampau dan tunjangan hari tua yang dibayarkan kepada penduduk dari sumber tersebut hanya akan dikenakan pajak di Negara lainnya itu.
2. Pensiun dan tunjangan hari tua dibayarkan, dan pembayaran periodik lainnya atau sekali-kali yang dilakukan oleh suatu Negara pihak pada Persetujuan atau bagian ketatanegaraannya berkenaan dengan asuransi kecelakaan perseorangan, dapat dikenakan pajak di Negara itu.
3. Istilah tunjangan hari tua berarti suatu jumlah tertentu yang dibayarkan secara berkala pada waktu tertentu selama hidup atau selama masa atau jangka waktu tertentu, berdasarkan suatu kewajiban untuk melakukan pembayaran sebagai penggantian balas jasa yang memadai dan penuh dalam bentuk uang atau yang dapat dinilai dengan uang.

Pasal 19
PEJABAT PEMERINTAH

1. a) Imbalan, selain dari pensiun, yang dibayarkan oleh Negara pihak pada Persetujuan atau bagian ketatanegaraannya atau pemerintah daerahnya kepada seseorang sehubungan dengan jasa-jasa yang diberikan kepada Negara tersebut atau bagiannya atau pemerintahnya, hanya akan dikenakan pajak di Negara itu.
b) Namun demikian, imbalan tersebut hanya akan dikenakan pajak di Negara pihak lainnya pada Persetujuan apabila jasa-jasa tersebut diberikan di Negara pihak lainnya itu dan orang tersebut adalah penduduk Negara itu yang :
 - (i) merupakan warganegara dari Negara itu; atau
 - (ii) tidak menjadi penduduk Negara itu semata-mata hanya untuk maksud memberikan jasa-jasa tersebut.
2. a) Pensiun yang dibayarkan oleh, atau dari dana yang dibentuk oleh suatu Negara pihak pada Persetujuan atau bagian ketatanegaraannya atau pemerintah daerahnya kepada seseorang sehubungan dengan jasa-jasa yang diberikannya kepada Negara itu atau bagiannya atau pemerintahnya hanya akan dikenakan pajak di Negara itu.
b) Namun demikian, pensiun tersebut hanya akan dikenakan pajak di Negara pihak pada Persetujuan bilamana orang tersebut adalah penduduk dan warganegara dari Negara itu.
3. Ketentuan-ketentuan dalam Pasal-pasal 15, 16 dan 18 akan berlaku terhadap gaji, upah dan imbalan sejenis lainnya, dan pada pensiun dari jasa-jasa yang diberikan sehubungan dengan usaha yang dijalankan oleh suatu Negara pihak pada Persetujuan, bagian ketatanegaraannya atau pemerintah daerahnya.

Pasal 20
GURU DAN SISWA

1. Pembayaran-pembayaran yang diterima oleh siswa peserta latihan usaha yang merupakan warganegara suatu Negara pihak pada Persetujuan dan berada di negara pihak pada Persetujuan lainnya semata-mata untuk mengikuti pendidikan atau latihan, tidak akan dikenakan pajak di negara lainnya, sepanjang

pembayaran-pembayaran tersebut adalah untuk keperluan hidup, pendidikan atau latihannya dan pembayaran yang diperolehnya berasal dari luar Negara pihak lainnya.

2. Sebaliknya, imbalan yang diterima oleh guru dan oleh instruktur yang merupakan warganegara dari suatu Negara pihak pada Persetujuan dan yang berada di Negara pihak pada Persetujuan lainnya dan tujuan utamanya mengajar atau melakukan penelitian ilmiah untuk suatu masa atau masa-masa tidak lebih dari dua tahun berturut-turut akan dibebaskan dari pengenaan pajak di Negara pihak lainnya itu atas imbalan yang diterima dari jasa perseorangan dari mengajar dan meneliti, asalkan pembayaran yang diperolehnya berasal dari luar Negara pihak lainnya itu.
3. Imbalan yang diterima seorang siswa atau peserta latihan yang merupakan warganegara suatu Negara pihak pada Persetujuan yang diperoleh dari hubungan kerja yang dilakukannya di negara pihak pada Persetujuan lainnya untuk suatu masa atau masa-masa tidak melebihi 183 hari dalam satu tahun takwin, sehubungan untuk mendapatkan pengalaman praktis yang berhubungan dengan pendidikannya atau formasi, tidak akan dikenakan pajak di Negara lainnya itu.

Pasal 21 PENGHASILAN LAINNYA

Jenis-jenis penghasilan lainnya dari seorang penduduk yang tidak disebutkan dalam pasal-pasal terdahulu dalam Persetujuan ini hanya akan dikenakan pajak di Negara tersebut, kecuali apabila penghasilan tersebut diperoleh dari sumber-sumber di dalam Negara pihak pada Persetujuan lainnya dapat juga penghasilan tersebut dikenakan pajak di Negara lainnya itu.

Pasal 22 PENGHINDARAN PAJAK BERGANDA

1. Pajak Berganda untuk penduduk Indonesia akan dihindari sebagai berikut:
Apabila seorang penduduk Indonesia memperoleh penghasilan dari Turki jumlah pajak atas penghasilan itu yang dibayarkan di Turki menurut ketentuan dari Persetujuan ini dapat dikreditkan terhadap pajak yang dikenakan di Indonesia atas penduduk tersebut. Namun demikian jumlah kredit tidak boleh melebihi jumlah pajak Indonesia atas penghasilan tersebut yang dihitung sesuai dengan Undang-Undang pajak Indonesia dan peraturan-peraturannya.
2. Pajak berganda untuk penduduk Turki akan dihindari sebagai berikut :
 - a) Apabila seorang penduduk Turki memperoleh penghasilan ysemata-mata dari penghasilan yang dicakup dalam ayat (b), selanjutnya, menurut ketentuan-ketentuan dari Persetujuan ini dapat dikenakan pajak di Indonesia, Turki akan membebaskan penghasilan tersebut dari pengenaan pajak tetapi dalam menghitung pajak atas penghasilan sisanya dari orang/badan tersebut, diterima tarif pajak yang digunakan apabila penghasilan yang dibebaskan itu tidak dibebaskan.
 - b) Apabila seorang penduduk Turki memperoleh penghasilan yang menurut ketentuan Pasal 10, 11, 12 dan ayat 4 Pasal 13 Persetujuan ini dapat dikenakan pajak di Indonesia, Turki akan memperkenankan suatu pengurangan dari pajak atas penghasilan orang/badan itu, sejumlah yang sama dengan pajak yang dibayar di Indonesia.

Namun demikian pengurangan tersebut tidak akan melebihi bagian dari pajak yang dititng sebelum pengurangan diberikan, yang sesuai dengan besarnya

penghasilan yang dapat dikenakan pajak di Indonesia.

Pasal 23
NON DISKRIMINASI

1. Warganegara dari suatu Negara pihak pada Persetujuan tidak akan dikenakan pajak atau kewajiban apapun sehubungan dengan pengenaan pajak di Negara pihak pada Persetujuan lainnya, yang berlainan atau lebih memberatkan daripada pengenaan pajak dan kewajiban-kewajiban pihak, yang dikenakan atau dapat dikenakan terhadap warganegara dari Negara pihak lainnya dalam keadaan yang sama, secara khusus berkenaan dengan tempat tinggal.
2. Tunduk pada ketentuan-ketentuan dari ayat 4 Pasal 10 pengenaan pajak atas bentuk usaha tetap yang dimiliki oleh suatu perusahaan dari Negara pihak pada Persetujuan di Negara pihak pada Persetujuan lainnya, tidak akan dilakukan dengan cara yang kurang menguntungkan dibandingkan dengan pengenaan pajak atas perusahaan-perusahaan yang menjalankan kegiatan-kegiatan yang sama di Negara pihak lainnya itu.
3. Perusahaan di suatu Negara pihak pada Persetujuan, yang modalnya sebagian atau seluruhnya dimiliki atau dikuasai baik langsung atau tidak langsung oleh penduduk dari Negara pihak pada Persetujuan lainnya, tidak akan dikenakan pajak atau kewajiban apapun yang berkaitan dengan pengenaan pajak di Negara yang disebut pertama yang berlainan atau lebih memberatkan daripada pengenaan pajak dan kewajiban-kewajiban dimaksud yang dikenakan atau dapat dikenakan terhadap perusahaan-perusahaan lainnya yang serupa di Negara yang disebut pertama.
4. Ketentuan-ketentuan ini tidak dapat ditafsirkan sebagai mewajibkan suatu Negara pihak pada Persetujuan untuk memberikan kepada penduduk Negara pihak pada Persetujuan lainnya suatu potongan keluarga, keringanan-keringanan dan pengurangan- pengurangan apapun berdasarkan status sipil atau beban keluarga untuk tujuan pengenaan pajak seperti yang diberikan kepada penduduknya sendiri.

Pasal 24
TATA CARA PERSETUJUAN BERSAMA

1. Apabila seorang penduduk menganggap bahwa tindakan-tindakan salah satu atau kedua Negara pihak pada Persetujuan mengakibatkan atau akan mengakibatkan pengenaan pajak yang tidak sesuai dengan Persetujuan ini, maka terlepas dari cara-cara penyelesaian yang diatur oleh perundang-undangan nasional dari masing-masing Negara, maka ia dapat mengajukan masalahnya kepada pejabat yang berwenang di Negara pihak pada Persetujuan di mana ia berkedudukan, atau apabila masalah yang timbul menyangkut ayat 1 Pasal 23 kepada pejabat yang berwenang di Negara pihak pada Persetujuan dimana ia menjadi warganegara.
2. Apabila keberatan yang diajukan itu cukup beralasan untuk diselesaikan dan apabila atas masalah itu tidak dapat ditemukan suatu penyelesaian yang memuaskan, Pejabat yang berwenang akan berusaha menyelesaikan masalah itu melalui persetujuan bersama dengan pejabat yang berwenang dari Negara pada Persetujuan lainnya, untuk mencegah penghindaran pajak yang tidak sesuai dengan Persetujuan ini.
3. Pejabat-pejabat yang berwenang dari kedua Negara pihak pada Persetujuan akan berusaha untuk menyelesaikan melalui suatu persetujuan bersama atas setiap

kesulitan atau keragu-raguan yang timbul dalam penafsiran atau penerapan Persetujuan ini. Mereka dapat juga berkonsultasi bersama untuk mencegah pengenaan pajak berganda dalam hal tidak diatur dalam Persetujuan.

4. Pejabat-pejabat yang berwenang dari kedua Negara pihak pada Persetujuan dapat berhubungan langsung satu sama lain untuk mencapai persetujuan sebagaimana dimaksud pada ayat-ayat sebelumnya. Pejabat-pejabat yang berwenang, melalui konsultasi akan menetapkan prosedure-prosedure, syarat-syarat, cara-cara dan teknik-teknik untuk merealisir prosedure persetujuan-persetujuan bersama yang diatur dalam pasal ini.

Pasal 25 PERTUKARAN INFORMASI

1. Pejabat-pejabat yang berwenang dari kedua Negara pihak pada Persetujuan akan melakukan tukar menukar informasi yang diperlukan untuk melaksanakan ketentuan-ketentuan dalam Persetujuan ini atau untuk melaksanakan undang-undang nasional Negara masing-masing mengenai pajak-pajak yang dicakup dalam Persetujuan, sepanjang pengenaan pajak menurut undang-undang Negara yang bersangkutan tidak bertentangan dengan Persetujuan ini. Setiap informasi yang diterima oleh suatu Negara pihak pada Persetujuan akan dijaga kerahasiannya dengan cara yang sama seperti apabila informasi itu diperoleh berdasarkan perundang-undangan nasional Negara tersebut. dan hanya dapat diungkapkan kepada orang atau badan atau pejabat-pejabat (termasuk pengadilan dan badan-badan administratif) yang berkepentingan dalam penetapan atau penagihan pajak, pelaksanaan undang-undang atau penuntutan, atau dalam memutuskan keberatan berkenaan dengan pajak-pajak yang dicakup dalam Persetujuan ini. Orang atau badan atau para pejabat tersebut hanya boleh memberikan informasi itu untuk maksud tersebut di atas. Mereka dapat juga mengungkapkan informasi itu dalam pengadilan umum atau dalam pembuatan keputusan-keputusan pengadilan.
2. Bagaimanapun juga Ketentuan-ketentuan ayat (1) sama sekali tidak dapat ditafsirkan sedemikian rupa sehingga membebankan kepada Negara pihak pada Persetujuan kewajiban untuk :
 - a) melaksanakan tindakan-tindakan administratif yang bertentangan dengan perundang-undangan dan praktek administrasi yang berlaku di Negara itu atau di Negara pihak pada Persetujuan lainnya;
 - b) memberikan informasi yang tidak mungkin diperoleh berdasarkan perundang-undangan atau dalam praktek administrasi yang lazim di Negara tersebut atau di Negara pihak pada Persetujuan lainnya;
 - c) memberikan informasi yang mengungkapkan rahasia apapun dibidang perdagangan, usaha, industri, perniagaan atau keahlian, atau tata cara perdagangan atau informasi lainnya yang pengungkapannya bertentangan dengan kebijaksanaan umum (odre public).

Pasal 26 ANGGOTA-ANGGOTA MISI DIPLOMATIK DAN KONSULER

Persetujuan ini tidak akan mempengaruhi hak-hak istimewa di bidang fiskal dari anggota-anggota misi diplomatik dan konsuler berdasarkan peraturan-peraturan umum hukum internasional atau berdasarkan ketentuan-ketentuan dalam suatu persetujuan khusus.

Pasal 27
PEMBATASAN BAGI YANG BERHAK

Masing-masing Negara pada pihak Persetujuan akan berusaha memungut atas nama Negara pihak pada Persetujuan lainnya pajak-pajak yang dikenakan oleh Negara pada pihak Persetujuan lainnya sehingga akan menjamin bahwa setiap pembebasan atau pengurangan tarif yang diberikan Persetujuan ini oleh Negara pihak pada Persetujuan lainnya itu tidak akan dinikmati oleh orang atau badan yang tidak berhak. Pejabat-pejabat yang berwenang dari Negara pihak pada Persetujuan dapat berkonsultasi bersama untuk tujuan melaksanakan ketentuan Pasal ini.

Pasal 28
BERLAKUNYA PERSETUJUAN

1. Masing-masing Negara pihak pada Persetujuan akan saling memberitahu Negara pihak pada Persetujuan lainnya mengenai telah dipenuhinya syarat-syarat berdasarkan perundang-undangannya untuk memberlakukan Persetujuan ini. Persetujuan ini akan berlaku pada tanggal pemberitahuan yang terakhir.
2. Ketentuan-ketentuan dari Persetujuan ini akan berlaku :
 - (a) mengenai pajak yang dipotong pada sumber atas jumlah yang dibayarkan atau dikreditkan pada atau setelah hari pertama Januari berikutnya sesudah tanggal berlakunya Persetujuan ini;
 - (b) mengenai pajak lainnya, untuk tahun-tahun pajak yang dimulai pada atau setelah hari pertama Januari tahun berikutnya sesudah tanggal berlakunya Persetujuan ini.

Pasal 29
BERAKHIRNYA PERSETUJUAN

Persetujuan ini akan tetap berlaku sampai diakhiri oleh salah satu Negara pihak pada Persetujuan. Masing-masing Negara pihak pada Persetujuan dapat mengakhiri berlakunya Persetujuan ini, melalui saluran-saluran diplomatik, dengan menyampaikan pemberitahuan tentang berakhirnya Persetujuan paling lambat 6 bulan sebelum berakhirnya tahun kalender setelah jangka waktu 5 (lima) tahun sejak tanggal berlakunya Persetujuan.

Dalam hal demikian, Persetujuan ini akan tidak berlaku lagi :

- (a) mengenai pajak yang dipotong pada sumber, atas jumlah yang dibayar atau dikreditkan pada atau setelah hari pertama bulan Januari berikutnya setelah tanggal pemberitahuan berakhirnya Persetujuan diberikan;
- (b) mengenai pajak-pajak lainnya, untuk tahun-tahun pajak yang dimulai pada atau setelah hari pertama bulan Januari tahun berikutnya setelah tanggal pemberitahuan berakhirnya Persetujuan diberikan.

DENGAN KESAKSIAN para penandatanganan di bawah ini, yang telah memperoleh kuasa yang sah telah menandatangani Persetujuan ini dan membubuhkan segel.

DIBUAT dalam rangkap dua di Jakarta, pada tanggal 25 Februari 1997, dalam bahasa Indonesia, Turki dan Inggris, ketiga naskah tersebut berkekuatan sama. Dalam

hal terjadi perbedaan penafsiran diantara naskah-naskah tersebut, maka naskah yang berlaku adalah naskah dalam bahasa Inggris.

UNTUK PEMERINTAH
REPUBLIK INDONESIA
TTD

UNTUK PEMERINTAH
REPUBLIK TURKI
TTD

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

The Government Of the Republic Of Indonesia and the Government Of the Republic of Turkey,
DESIRING to conclude an Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income,
HAVE AGREED AS FOLLOWS :

**Article 1
PERSONAL SCOPE**

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

**Article 2
TAXES COVERED**

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.,
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises.
3. The existing taxes to which the Agreement shall apply are in particular:
 - a) in Indonesia :
the income tax imposed under the Undang-undang Pajak Penghasilan 1984 (Law No. 7 of 1983 as amended)
(hereinafter referred to as :Indonesian tax).
 - (b) in Turkey:
 - (i) the income tax;
 - (ii) the corporation tax;
 - (iii) the levy imposed on the income tax and the corporation tax;
(hereinafter referred to as Turkish tax)
4. The Agreement shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of significant 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 and the adjacent areas over which the Republic of Indonesia has sovereignty, sovereign rights or jurisdiction in accordance with international law.
 - (ii) the term Turkey means the Turkish territory, territorial sea, as well as the maritime areas over which it has jurisdiction or sovereign rights for the purpose of exploring, exploiting, conserving and managing natural resources, pursuant to international law.
 - b. the terms Contracting State and the other Contracting State mean Indonesia or Turkey as the context requires;
 - c. the term tax means any tax covered by Article 2 of this Agreement;
 - d. the terms 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 tax purposes;
 - f. the term registered office means the place of incorporation under the laws of Indonesia or the legal head office registered under the Turkish Code of Commerce;
 - g. the term national means:
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) any legal person, partnership and association deriving its status as such from the laws in force in a Contracting State;
 - h. 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;
 - i. the term competent authority means:
 - (i) in Indonesia, the Minister of Finance or his authorized representative; and
 - (ii) in Turkey, the Minister of Finance or his authorized representative;
 - j. 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.
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, registered office, legal head office, place of management or any other criterion of a similar nature.
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 State in which he has his centre of vital interests cannot be determined, or if he does not have 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 it has been incorporated (registered).

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, an oil or gas well, a quarry or any other places of extraction of natural resources.

The term permanent establishment likewise encompasses:

- a. a building site, a construction, assembly or installation project or supervisory activities in connection therewith but only where such site, project or activities continue in one of the Contracting States for a period of more than six months.
- b. the furnishing of services, including consultancy services by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than 183 days within any twelve month period
4. Notwithstanding the preceding provisions of this Article, the term permanent establishment shall be deemed not to include:
 - a. the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;
 - b. the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;
 - c. the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - d. the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
 - e. 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;
 - f. the maintenance of a fixed place of business solely for any combination of

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

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. has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph (4) which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or
 - b. has no such authority, but habitually maintains in the first-mentioned State stock of goods or merchandise from which he regularly delivers goods on behalf of the enterprise .
6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that 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.
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.

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(including the breeding and cultivation of fish) and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and right 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 independent personal services.

Article 7 BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. if the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. 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 the determining of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of 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 will be allowed in respect of participation to the expenses and losses of the head office or other permanent establishments situated abroad and likewise, the amounts paid by the permanent establishment to the head office of the enterprise or any of its other permanent establishment, by way of royalties, interests, commissions or other similar payments.
4. 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.
5. 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 derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.
2. For the purpose of this Article, profits derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall include inter alia profits derived from the use or rental of containers, if such profits are incidental to the profits to which the provisions of paragraph (1) apply.
3. The provisions of paragraph (1) of this Article shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9 ASSOCIATED ENTERPRISES

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

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those

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

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

Article 10 DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting 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:
 - a. 10 percent of the gross amount of the dividends if the beneficial owner is a company (excluding partnership) which holds directly at least 25 percent of the capital of the company paying the dividends;
 - b. 15 percent of the gross amount of the dividends in all other cases.
3. The term dividends as used in this Article means income from shares, jouissance shares or jouissance rights, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident, and income derived from an investment fund and investment trust.
4. Profits of company of a Contracting State carrying on business in the other Contracting State through a permanent establishment situated therein may, after having been taxed under Article 7, be taxed on the remaining amount in the Contracting State in which the permanent establishment is situated and in accordance with paragraph (2) of this Article.
5. 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 in the case of a resident of Turkey, performs in Indonesia independent personal services from a fixed base situated in Indonesia 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.

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 other Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 percent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.
3. Notwithstanding the provisions of paragraph (2), interest arising in :
 - a) Indonesia and paid to the Government of Turkey or to the Central Bank of Turkey (Turkiye Cumhuriyet Merkez Bankasi) or to the Turkish Eximbank (Turkiye ihracat Kredi Bankasi A.S.) shall be exempt from Indonesian tax,
 - b) Turkey and paid to the Government of Indonesia or to the Bank of Indonesia (Central Bank) shall be exempt from Turkish tax.
4. The term interst 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 interest on deferred payment sales.
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 in the case of a resident of Turkey, performs in Indonesia independent personal services from a fixed base situated in Indonesia 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 interst, whether he is a resident of a Contracting State or not, has in a Contracting State a pemanent 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 also be taxed in the Contracting State in, Which they arise and according to the laws of that State, but if the beneficial owner of the royalties the tax so charged shall not exceed 10 percent of the gross amount of the

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

3. The term royalties as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematograph films, any patent, trademark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience, or for the use of, or the right to use, industrial, commercial or scientific equipment.
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 in the case of a resident of Turkey performs in Indonesia independent personal services from a fixed base situated in Indonesia and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is 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 or a fixed base in connection with which the right or property giving rise to the royalties is effectively connected, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 13 CAPITAL GAINS

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

alienator is a resident. However, the capital gains mentioned in the foregoing sentence and derived from the other Contracting State, shall be taxable in the other Contracting State if the time period does not exceed one year between acquisition and alienation.

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 183 days within any twelve month period. if he has such a fixed base or remains in that other State for the aforesaid period or period, 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 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 other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17 ARTISTS AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theater, motion picture, radio or television artist, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.
3. Income derived by an entertainer or a sportsman from activities exercised in a Contracting State shall be exempted from tax in that State, if the visit to is supported wholly that state is supported or mainly by public funds of the other Contracting State; a political subdivision or a local authority thereof.

Article 18 PENSIONS

1. Subject to the provisions of paragraph (2) of Article 19, 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. Pensions and life annuities paid, and other periodical or occasional payments made by a Contracting State, or one of its political subdivisions in respect of insuring personal accidents, may be taxed in that State.
3. 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 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 subdivision or 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 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 State.
3. The provisions of Articles 15, 16 and 18 shall apply to salaries, wages and other similar remuneration, and to 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 TEACHERS AND STUDENTS

1. Payments which a student or business apprentice who is a national Of Contracting State and who is present in the other Contracting State solely for the purpose of his education or training receives for the the purpose of his maintenance, education or training shall not be taxed in that other State, provided that such payments arise from sources outside that other State.
2. Likewise, remuneration received by a teacher or by an instructor who is a national of a Contracting State and who is present in the other Contracting State and the primary purpose of teaching or engaging in scientific research for a period or periods not exceeding two consecutive years shall be exempted from tax in that other State on his remuneration from personal services for teaching or research, provided that such payments arise from sources outside that other State.
3. Remuneration which a student or a trainee who is a national of a Contracting State derives from an employment which he exercises in the other Contracting State for a period or periods not exceeding 183 days in a calendar year, in order to obtain practical experience related to his education or formation shall not be taxed in that other 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 DOBLE TAXATION

1. Double taxation for the residents of Indonesia shall be eliminated as follows : Where a resident of Indonesia derives income from Turkey, the amount of tax on that income payable in Turkey in accordance with the provisions of this Agreement, may be credited against the tax levied in Indonesia imposed on that resident. The amount of credit, however, shall not exceed the amount of the tax in Indonesia on that income computed in accordance with its taxation laws and regulations.
2. Double taxation for the residents of Turkey shall be eliminated as follows:
 - a. Where a resident of Turkey derives income which, exclusive of income covered by paragraph (b), hereafter, in accordance with the provisions of this Agreement, may be taxed in Indonesia, Turkey shall exempt such income from tax but may, in calculating tax on the remaining income of that person, apply the rate of tax which would have been applicable if the exempted income had not been so exempted.
 - b. Where a resident of Turkey derives income which, in accordance with the provisions of Articles 10, 11, 12 and paragraph (4) of Article 13 of this Agreement, may be taxed in Indonesia, Turkey shall allow as a deduction from the

tax on the income of that person, an amount equal to the tax paid in Indonesia.

Such deductions shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to the income 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, in particular with respect to residence, are or may be subjected.
2. Subject to the provisions of paragraph (4) of Article 10, 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.
3. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.
4. These provisions 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.

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 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.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Agreement.
3. The competent authorities of the Contracting States shall endeavor 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. The competent authorities, through consultations, shall

develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure provided for in this Article.

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

Article 26 MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

Article 27 ENTRY INTO FORCE

1. Each Contracting State shall notify to the other Contracting State the completion of the procedures required by its law for the bringing into force of this Agreement. This Agreement shall enter into force on the date of the later of these notifications.
2. The provisions of this Agreement shall have effect:
 - a) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of January next following the date upon which this Agreement enters into force; and
 - b) with regard to other taxes, in respect of taxable years beginning on or after the first day of January next following the date upon which this Agreement enters into force.

Article 30 TERMINATION

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

- a) with regard to taxes withheld at source on amounts paid or credited on or after the first day of January next following the date upon which such notice is given; and
- b) with regard to other taxes, in respect of taxable years beginning on or after the first day of January next following the date upon which such notice is given.

IN WITNESS WHEREOF the undersigned duly authorized thereto have signed the present Agreement and have affixed their seals thereto.

DONE in duplicate at Jakarta this twenty fifth day of February 1997 in the Indonesian, Turkish and English languages all three texts being equally authentic. In case of divergence between the texts, the English text shall be the operative one.

FOR THE GOVERNMENT OF
THE REPUBLIC OF INDONESIA
ttd.

FOR THE GOVERNMENT OF
THE REPUBLIC OF TURKEY
ttd

PROTOCOL

At the time of signing the Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on income, concluded this day between the Republic of Indonesia and the Republic of Turkey, the undersigned have agreed upon the following provisions shall form an integral part of the Agreement.

1. With respect to Article 5;
It is understood that the use of facilities solely for the purpose of mere delivery of goods or merchandise and the maintenance of a stock of goods or merchandise solely for the purpose of mere delivery shall not be treated as permanent establishment for the purposes of this Agreement. On the contrary, the regular delivery in such cases and in the cases of activities of a person other than acting as an agent of an independent status on behalf of an enterprise and who habitually maintains a stock of goods or merchandise in the other Contracting State, shall be deemed to be a permanent establishment for the purposes of this Agreement.
2. With respect to Article 10:
The provisions of paragraph (4) of this Article shall not affect the provisions contained in any production sharing contracts or any other similar contracts relating to oil and gas sector or other mining sector concluded by the Government of Indonesia, its instrumentality, its relevant state oil and gas company or any other entity thereof with a person who is a resident of Turkey.
3. With respect to Article 16;
The term a member of the board of directors of company shall include managing directors (anggota pengurus) and supervisory directors (anggota dewan komisaris) of an Indonesia company.
4. With respect to Article 24;
For the purposes of paragraph (3) of Article XXII (Consultation) of General Agreement on Trade in Services, the Contracting States agree that, notwithstanding that paragraph, any dispute between them as to whether a measure

falls within the scope of this Agreement may be brought before the Council for Trade in Services, as provided by that paragraph, only with the consent of both Contracting States. Any doubt as to the interpretation of this paragraph shall be resolved under paragraph (3) of Article 24 or, failing agreement under that procedure, pursuant to any other procedure agreed by both Contracting States.

IN WITNESS WHEREOF the undersigned duly authorized thereto, have signed the present Protocol and have affixed their seals thereto.

DONE in duplicate at Jakarta this twenty fifth day of February 1997 in the Indonesian, Turkish and English Languages, all three texts being equally authentic. In case of divergence between the texts, the English text shall be the operative one.

FOR THE GOVERNMENT OF
THE REPUBLIC OF INDONESIA
ttd.

FOR THE GOVERNMENT
THE REPUBLIC OF TURKEY
ttd.

ENDONEZYA CUMHURIYETI HUKUMENTIILE
TÜRKİYE CUMHURIYETİ HUKUMETİ ARASINDA
GELİR ÜZERİNDEN ALINAN VERGİLERDE
GİFTE VERGİLENDİRMEYİ ONLEME VE VERGI
KAÇAKÇILIGINA ENGEL OLMA ANLASMASI

ENDONEZYA CUMHURIYETİ HÜKÜMETİ
VE
TÜRKİYE CUMHURIYETİ HÜKÜMETİ

Gelir Üzerinden alınan vergilerde Çifte vergilendirmeyi Önlemek
ve vergi kaçakçılığına engel olmak amacıyla,

ASAGIDAKI ANLASMAYA VARMISLARDIR :

Madde 1
kisilere iliskin kapsam

Bu Anlasma Akit Devletlerden birinin veya her ikisinin mukimi olan kisilere

Madde 2
KAVRANAN VERGILER

1. Bu Anlasma, ne sekilde alindigina bakilmaksizin, bir Akit Devlet veya onun politik alt bolumleri veya mahalli ida adina gelir Uzeriden alınan vergilere uygulanacaktır.
2. Menkul veya gayrimenkul varliklarin devrinden dogan kazanclara uygulanan vergiler ile Ucrelin veya maasin toplam tutan Uzerinden tesebbusler tarafindan odenen vergiler dahil olmak üzere, toplam gelir veya gelir unsurian uzerinden alınan tum vergiler, gelirden alınan vergiler olarak kabul edilecektir.
3. Anlasmanin uygulanacagi su anda pecerli olan vergiler ozellikle :
 - a) Turkiye' de :
 - i) gelir vergisi;
 - ii) kurumlar vergisi;

- iii) gelir vergisi ve kurumlar vergisi uzerinden alınan fon payi;
(Bundan boyle Turk Vergisi olarak bahsedilecektir).
 - b) Endonezya'da 1984 Undang-undang Pajak Penghasilan cercevesinde alınan gelir vergisi (1983'te degistirilen 7 Nolu vergi),
(Bundan boyle Endonezya Vergisi olarak bahsedilecektir).
4. Bu Anlasma ayni zamanda, Anlasmanin imza tarihinden sonra mevcut vergilere ilave olarak veya onlarin yerine alınan ve mevcut vergilerle ayni nitelikte olan veya onlara onemli olcude benzeyen vergilere de uygulanacaktır. Akit Devlettlerin yetkili makamlari, ilgili vergi mevzuatlarında yapılan onemli degisiklikleri birbirlerine

Madde 3 GENEL TANIMLAR

1. Bu Anlasmann amaclar yonunden, metin aksini ongomedikce :
 - a) i) Turkiye terimi, Turkiye'nin sahip oldugu egemenik alanini, karasularini, ayni zamanda uluslararası hukuka uygun olarak dogal kaynaklann arastirilmasi, isletilmesi, korunmasi ve idaresi amaciyla yargı yetkisi veya egemenik haklarina sahip oldugu deniz alanlarini eder;
 - ii) Endonezya terini, Endonezya Cumhuriyeti'nin sahip odugu egemenik alanini ve uluslararası hukuk uyarinca, Endonezya Cumhuriyeti'nin Uzerinde egemenlik haklarini veya yargı yetkisini kuiadigi bitisik alanları kapsamına alır;
 - b) Bir Akit Devlet ve diger Akit Devlet terimleri, metnin geregine gore, Turkiye veya Endonezya anlamina gelir;
 - c) Vergi terimi, bu Anlasmanin 2 nci maddesinde kavranan herhangi bir vergi anlamina gelir;
 - d) Kisi terimi, bir gercek kisi, bir sirket ve kisilerin olusturdugu diger herhangi bir kurulus anlamina gelir.
 - e) Sirket terimi, herhangi bir kurum veya vergileme yonunden kurun olarak muamele goren herhangi bir kurulus anlamina gelir;
 - f) Kayitli merkez terimi, Turk Ticaret Kanununa gore tescil edilmis kanuni merkez veya Endonezya Kanunlarina gore, kurumlasilan yer anlamina gelir;
 - g) Vatandas terimi :
 - i) bir Akit Devletin valandasligina sahip herhangi bir gercek kisiyi;
 - ii) bir Akit Devlette Yururlukte olan mevzuata gore statu kazanan herhangi bir hukmi sahsi, ortakligi veya dernegi ifade eder;
 - h) Bir Akit Devletin tesebbusu ve diger Akit Devletin tesebbusu terimleri sirasiyla, bir Akit Devletin bir mukimi tarafindan isletilen bir tesebbus ve diger Akit Devletin bir mukimi tarafindan isletilen bir tesennus anlamina gelir;
 - i) Yetkili makam teirmi :
 - i) Turkey'de, Maline Bakanini veya onun yetkili temsilcisini; ve
 - ii) Endonezya'da Maliye Bakanini veya onun yetkili temsilcisini ifade eder;
 - j) Uluslararası trafik terimi, bir Akit Devletin bir tesebbusu tarafindan yalnızca diger Akit Devletin sinirlari iciende gerceklestirilen gemi veya ucak isletmeciliği haric, gemi veya ucak isletmeciliği haric, gemi veya ucak isletilerek yapılan herhangi bir tasimacılığı ifade eder.
2. Bir Akit Devletin bu Anlasmayı uygulaması bakimindan, Anlasmada tanimlanmamis herhangi bir terim, metin aksini ongomedikce, bu Anlasmaya konu teskil eden vergilerin yer aldigı Devletin mevzuatında ongorulen anlami tasir.

Madde 4 MUKIM

1. Bu Anlasmanin amaclari bakimindan, bir Akit Devletin mukimi terimi, o Devletin mevzuati geregince ev, ikametgah, kayitli merkez, kanuni merkez, yonetim yeri veya benzer yapida diger herhangi bir kriter nedeniyle vergi mukellefi olan kisi anlamina gelir.
2. 1 inci fikra hukumleri dolayisiyla bir gercek kisi her iki Akit Devlette de mukim oldugunda, bu kisinin durumu asagidaki kurallara gore belirlenecektir:
 - a) Bu kisi, daimi olarak kalabilecegi bir meskenin bulundugu Devletin mukimi kabul edilecektir. Eger bu kininin her iki Devlette de daimi olarak kalabilecegi bir meskeni varsa, bu kisi, kisisel ve ekonomik iliskilererinin daha yakin oldugu Devletin bir mukinmi olarak kabul edilecektir (hayati menfaatlerin merkezi);
 - b) Eger kisinin hayatı menfaatlerinin merkezinin yer aldigı Devlet saptanamzsa veya her iki Devlette de daimi olarak kalabilecegi bir meskeni yoksa, bu kisi kalmayı adet edindiği evin bulunduğu Devletin bir mukimi olarak kabul edilecektir;
 - c) Eger kisinin her iki Devlette de kalmayı adet edindiği bir ev veya her iki Devlette de böyle bir ev söz konusu degilse, bu kisi, vatandaşlığı olduğu Devletin bir mukimi olarak kabul edilecektir;
 - d) Eger kisisi her iki Devlette de vatandaşlığı veya her iki Devlette de vatandaşlığı degilse, Akit Devletlerin yetkili makamları sorunu karışık anlamıyla cozeceklerdir.
3. 1 inci fikra hukumleri dolayisiyla gercek kisi disindaki bir kisi her iki Akit Devletin de mukimi oldugunda, bu kisi kurumlastigi (kayitli oldugu) yerin bulundugu Devletin bir mukimi olarak kabul edilecektir.

Madde 5 ISYERI

1. Bu Anlasmanin amaclari bakimindan isyeri terimi, bir tesebbusun isinin tamamen veya kısmen yurutuldugu ise iliskin sabit bir yer anlamina gelir.
2. Isyeri terimi ozellikle sunlari kapsamina alir:
 - a) Yonentim yeri;
 - b) Sube;
 - c) Buro;
 - d) Fabrika;
 - e) Atelye, ve
 - f) Maden ocagi, petrol veya dogal gaz kuyusu, tas ocagi veya dogal kaynaklarin cikarildigi diger herhangi bir yer.
3. Isyeri terimi, ayni zamanda :
 - a) Akit Devletlerden birinde 6 ayi asan bir sure devam eden bir insaat santiyesi, yapim, kurma veya montaj projesi veya bunlaria ilgili gozerim faaliyetlerini,
 - b) Bir tesebbus tarafindan, bu amaca ise alınan hizmetli veya diger personel kullanilarak ifa edilen ve herhangi bir 12 aylık donemde ulke icinde (ayni veya bagh proje icin) toplam 183 gun veya daha fazla suren danismanlik hizmetleri de dahil hizmetleri kapsamaktadir.
4. Bu maddenin daha onceki hukumleri ile bagh kalinmaksizin, isyeri teriminin asagidaki hususlan kapsamadigi kabul edilecektir :
 - a) Tesebbus olanaklarinin, yalnızca tesebbuse ait mallarin veya ticari esyanin

depolanmasi veya teshiri amaciyla kullanilmasi;

- b) Tesebbuse ait mal veya ticari esya stoklarinin yalnızca depolama veya teshir amaciyla elde tutulmasi;
- c) Tesebbuse ait mal veya ticari esya stoklarinin yalnızca bir baska tesebbuse isletirilmesi amaciyla elde tutulmasi;
- d) ise iliskin sabit bir yerin yalnızca tesebbus icin mal veya ticari esya satin alma veya bilgi toplama amaciyla elde tutulmasi;
- e) Ise iliskin sabit bir yerin tesebbus icin yalnızca hazirlayici veya yardimci karakter tasiyan diger herhangi bir isin yapilmasi amaciyla elde tutulmasi;
- f) Ise iliskin sabit bir yerin, yalnızca a) ila e) bentlerinde bahsedilen faaliyetlerin bir veya birkacini bir arada icra etmek icin elde tutulmasi; ancak, bu faaliyetlerin bir arada icra edilmesi sonucunda kedini gosteren toplu faaliyetin hazirlayici veya yardimci karakterde olamasi şarttir.

5. 1inci ve 2nci fikralarin hukumleriyle bagli kalinmaksizin, bir kisi -6 nci fikranin uygulanacagi bagimsiz nitelikteki bir acente disinda - bir Akit Devlette diger Akit Devletin bir tesebbusu adina hareket ederse, bu tesebbus ilk bahsedilen Devlette, bu kisinin tesebbus icin gerceklestirdigi her turlu faaliyet dolayisiyla bir isyerine sahip kabul edilecektir. Eger bu kisi :

- a) O Devlette tesebbus adina mukavele akdetme yetkisine sahip olur ve bu yetkisini mutaden kullanirsa, sozkonusu faaliyetler 4 UncU fikrada belirtilenlerle sinirh olmadikca isyerinin varligi kabul edilecektir, ancak, anilan fikra hukmu cercevesinde ise iliskin sabit bir yerden yurutulen faaliyetler bu yeri bir isyeri haline getirmeyecektir; veya
- b) Boyle bir yetkisi olamamasina ragmen, tesebbus adina duzenli olarak sevk ettigi mallardan veya ticari esyadan ilk bahsedilen Devlette mutaden mal veya ticari esya stoku bulundurursa, isyerinin varligi kabul edilecektir.

6. Bir tesebbus, bir Akit Devlette islerini yalnızca bir simsar, bir genel komisyon acentesi veya bagimsiz statude diger herhangi bir acente vasitasiyla yuruttugu icin, bu Devlette bir isyerine sahip kabul olunmayacaktir, su kadar ki, bu kisilerin kendi islerine olagan sekilde devam etmeleri şarttir.

7. Bir Akit Devletin mukimi olan bir sirket, diger Akit Devletin mukimi olan veya bu diger Devlette ticari faaliyyette bulunan bir sirketi kontrol eder ya da onun tarafinda kontrol edilirse (bir isyeri vasitasiyla veya diger bir sekilde) bu sirketlerden herhangi biri digeri icin bir isyeri olusturmayacaktir.

Madde 6 GAYRIMENKUL VARLIKlardan ELDE EDILEN GELIR

- 1. Bir Akit Devlet mukiminin diger Akit Devlette bulunan bgayrimenkul varliklardan elde ettigi gelir (tarim veya ormancılıktan elde edilen gelir dahil), bu diger Devlette vergilendirilebilir.
- 2. Gayrimenkuf varfik terimi, sozkonusu varligin bulunduğu Akit Devletin mevzuatina gore tanimlanacaktır. Terim her halukarda, gayrimenkul varliga mutferri varliklari, tarim ve ormancılıkta kullanılan araclari ve hayvanları (balık Uretim ve yatistiriciliği dahil), Özel hukuk hukumlerinin uygulanacagi gayrimenkul mulkiyetine iliskin hakları, gayrimenkul intifa haklarını ve maden ocaklarının, kaynakların ve diger dogal kaynakların isletilmesi veya isletme hakkı karsılığında doğan sabit ya da degisen odemeler Uzerindeki hakları kapsayacak;

- gemiler, vapurlar ve ucaklar gayrimenkul varlik olarak kabul edilmeyecektir.
3. 1inci fikra hukumleri, gayrimenkul varligin digrudan kullanımından, kiralananmasından veya diger herhangi bir sekilde kullanımından else edilen gelire uygulanacaktır.
 4. 1inci 3 Uncu fikralarin hukumleri ayni zamanda, bir tesebbusun gayrimenkul varliklardan elde ettigi gelir ile serbest meslek faaliyetlerinin icrasında kullanılan gayrimenkul varlikrardan elde edilen gelire de uygulanacaktır.

Madde 7
TICARI KAZANÇLAR

1. Bir Akit Devlet tesebbusune ait kazanc, sozkonusu tesebbus diger Akit Devlette yer alan bir isyeri vasitasiyla ticari faaliyette bulunmadikca, yalnızca bu Devlette vergilendirilecektir. Eger tesebbus yukarida bahsedilen sekilde ticari faaliyette bulunursa, tesebbusun kazanclari bu diger Devlette, sadece isyerine alfedilebilen miktarla sinirli olmak uzeere vergilendirilebilir.
2. 3 Uncu fikra hukumleri sakli kaimak uzere, bir Akit Devlet tesebbusu diger Akit Devlette yer alan bir isyeri vasitasiyla ticari faaliyette bulunursa, bu takdirde bu isyerine, her iki Akit Devlette de ayni veya benzer kosullar altında, ayni veya benzer faaliyetlerde bulunan, tamamen ayri ve bagimsiz bir tesebbus olsaydi ve isyerini olusturdugu tesebbusten tamamen bagimsiz nitelik kazansaydi, ne kazanc elde edecek ise ayni miktarda bir kazanc atfedilecektir.
3. Isyerinin kazanci belirlenirken, isyerinin bulundugu Devlette veya baska yerde yapılan, yonetim ve genel idare giderlerini de kapsamina alan, isyerinin amaclarina uygun dusen giderlerin indirilmesine musaade edilecektir. Bununla beraber isyerinin, ana merkezin veya yurt disinda bulunan diger isyelerin zarar ve giderlerine katilmasina ve ayni sekilde isyeri tarafindan tesebbusun ana merkezine veya diger isyerlerine yapılan gayrimaddi hak bedeli, faiz, komisyon ve diger benzeri odemelerin gider olarak indirilmesine musaade edilmeyecektir.
4. Isyerine, bu isyeri tarafindan tesebbus adina yalnızca mal veya ticari esya satin alınması dolayisiyla herhangi bir kazanc atfedilmeyecektir.
5. Kazanc, bu Anlasmanin diger maddelerinde ayri olarak duzenlenen gelir unsurlarini da kapsamina aldiginda, o maddelerin hukumleri bu madde hukumlerinden etkilenmeyecektir.

Madde 8
GEMICILIK VE HAVA TASIMACILIGI

1. Bir Akit Devlet tesebbusunun uluslararası trafikte gemi veya ucak isletmeciliginden elde ettigi kazanc, yalnızca bu Devlette vergilendirilecektir.
2. Bu maddenin amacları bakımından, bir Akit Devlet tesebbusunun uluslararası trafikte gemi veya ucak isletmeciliginden elde ettigi kazanclar, 1inci fikra hukumlerinin uygulanacagi kazanclarin yanisira arizi olarak elde edilmesi şartıyla, konteynerlerin kullanımından veya bakımından elde edilen kazancları da kapsayacaktır.
3. Bu maddenin 1inci fikra hukumleri ayni zamanda, bir ortakliga, bir bagli isletmeye veya uluslararası isletilen bir acenteye istirak dolayisiyla elde edilen kazanclara da gulanacaktır.

Madde 9
BAGIMLI TESEBBUSLER

- a) Bir Akit Devlet tesebbusu, doğrudan veya dolaylı olarak diğer Akit Devlet tesebbusunun yönetim, kontrol veya sermayesine katıldığında,, veya
b) Aynı kişiler doğrudan veya dolaylı olarak bir Akit Devlet tesebbusunun ve diğer Akit Devlet tesebbusunun yönetim, kontrol veya sermayesine katıldığında.
ve her iki halde de, iki tesebbus arasındaki ticari veya mali ilişkilerde oluşan veya empoze edilen koşullar, bağımsız tesebbusler arasında oluşması gereken koşullardan farklılığındır, bu tesebbuslerden birisinde olması gereken, fakat bu koşullar dolayısıyla kendini göstermeyen kazancı, o tesebbusun kazancına eklenebilir ve buna göre vergilendirilebilir.
2. Bir Akit Devletin kendi tesebbuslarından birinin kazancına dahil ettiği ve vergilediği kazancı, diğer Akit Devlette vergilendirilen bu diğer Devlet tesebbuslarından birinin de kazancını içerebilir. Aynı zamanda, bu ilk bahsedilen Devletin kavradığı kazancı, bildirilen kazancı olmayıp, bağımsız tesebbusler arasında olacak ilişkiler gözönünde tutularak, sonradan bu ilk bahsedilen Devletce yürütlü hesaplamalar sonucunda belirlenen kazancı olabilir. Böyle bir durum kendini gösterdiğinde, eğer diğer Devlet bu düzeltmenin hukuki olduğu kanaatine varırsa, söz konusu kazancı üzerinden alınan verginin miktarında gerekli düzeltmeleri yapmak durumundadır. Bu düzeltme yapılmırken, bu anlaşmanın diğer hukumları gözönünde tutulacak ve gerektiğinde Akit Devletlerin yetkili makamları birbirlerine danışacaklardır.

Madde 10

TEMETTÜLER

1. Bir Akit Devletin mukimi olan bir şirket tarafından diğer Akit devletin bir mukimine odenen temettuler, bu diğer Devlette vergilendirilebilir.
2. Bununla beraber, söz konusu temettuler, aynı zamanda temettüyü ödeyen şirketin mukim olduğu Akit Devlette ve bu Devletin mevzuatına göre de vergilendirilebilir, ancak, temettüyü elde eden temettunun gerçek lehdarı ise, bu şekilde alınacak vergi aşağıdaki oranları asmayacaktır :
 - a) Temettunun gerçek lehdarı, temettü ödeyen şirketin sermayesinin doğrudan doğruya en az yüzde 25'ini elinde tutan bir şirket ise (ortaklıklar hariç) gayrisafi temettü tutarının yüzde 10'u;
 - b) Tüm diğer durumlarda gayrisafi temettü tutarının yüzde 15'i.
3. Bu maddede kullanılan temettü terimi, hisse senetlerinde, intifa senetlerinden veya intifa haklarından, kurucu hisse senetlerinden veya alacak niteliginde olmayıp kazanca katılmayı sağlayan diğer haklardan elde edilen gelirler ile dağıtımları yapan şirketin mukim olduğu Devletin mevzuatına göre, vergileme yönünden hisse senetlerinden elde edilen gelirle aynı muameleyi ören diğer şirket haklarından elde edilen gelirler ile yatırımları ve yatırımları ortaklığından elde edilen gelirleri ifade eder.
4. Diğer Akit Devlette yer alan bir işyeri vasıtasiyla ticari faaliyette bulunan bir Akit Devlet şirketinin kazancı, 7inci maddeye göre vergilendirildikten sonra, kalan kısmı işyerinin bulunduğu Akit Devlette ve bu maddenin 2. fıkrasma uygun olarak vergilendirilebilir.
5. Bir Akit Devlet mukimi olan temettunun gerçek lehdarı, temettüyü ödeyen şirketin mukim olduğu diğer Akit Devlette yer alan bir işyeri vasıtasiyla ticari faaliyette bulunursa veya bir Türkiye mukimi Endonezya'da yer alan bir sabit yer vasıtasiyla serbest meslek faaliyetinde bulunursa ve söz konusu temettü elde edisi olayı ile bu işyeri veya sabit yer arasında önemli bir bağ bulunmaktadırsa, 1inci ve 2nci fıkrası

hukumleri uygulanmayacaktır. Bu durumda olayına gÖre, 7 nci veya 14 uncu madde hukumleri uygulanacaktır.

Madde 11
FAIZ

1. Bir Akit Devlette doğan ve diğer Akit Devletin bir mukimine odenen faiz, bu diğer Devlette vergilendirilebilir.
2. Bununla beraber bu faiz, elde edildiği Akit Devlette ve o Devletin mevzuatına gÖre de vergilendirilebilir, ancak faizi elde elden faizin gerçek lehdari ise, bu şekilde alınacak vergi, faizin gayrisafi tutarının yüzde 10'unu asmayacaktır. Akit Devletlerin yetkili makamları, bu sınırlamanın uygulanma biçimini karşılıklı anlasma yoluyla belirleyeceklerdir.
3. 2 nci fikra hukumlerine bakılmaksızın :
 - a) Endonezya'da doğan ve Türkiye Hükumetine veya Türkiye Merkez Bankasına (Türkiye Cumhuriyet Merkez Bankası) veya Türk Eximbank'a (Türkiye ihracat kredi Bankası A.S) Ödenen faizler Endonezya vergisinden muaflı tutulacaktır.
 - b) Türkiye'de doğan ve Endonezya Hükumeline veya Endonezya Bankasına (Merkez Bankası) Ödenen faizler Türk vergisinden muaf tutulacaktır.
4. Bu maddede kullanılan faiz terimi, ipotek garantisine bağlı olsun olmasın veya borçlunun kazancına katılma hakkını tanısın tanımassisın, her nevi alacaktan doğan gelirleri ve Özellikle vadeli Ödeme satırları dolayısıyla alınan faizler dahil olmak üzere, devlet tahvillerinden, tahvillerden veya bonolardan elde edilen gelirleri ifade eder.
5. Bir Akit Devlet mukimi olan faizin gerçek lehdari, faizin elde edildiği diğer Akit Devlette yer alan bir işyeri vasıtasiyla ticari faaliyette bulunursa veya bir Türkiye mukimi Endonezya'da yer alan sabit bir yer vasıtasiyla serbest meslek faaliyetinde bulunursa ve söz konusu faizin Ödendiği alacak ile bu işyeri veya sabit yer arasında Önemli bir bağ bulunmaktaysa, 1inci ve 2 nci fikra hukumları uygulanmayacaktır. Bu durumda olayına gÖre, 7 nci veya 14 uncu madde hukumleri uygulanacaktır.
6. Bir Devletin kendisi, politik alt bölgelere, mahalli idaresi veya mukimi tarafından Ödenen faizin, o Akit Devlette elde edildiği kabul olunacaktır. Bununla beraber, faiz ödeyen kişi, bir Akit Devletin mukimi olsun veya olmasın, bir Akit Devlette faiz ödemeye neden olan borç-alacak ilişkisiyle bağlantılı bir işyerine veya sabit yere sahip olduğunda ve faiz bu işyeri veya sabit yerden kaynaklandığında, söz konusu faizin işyerinin veya sabit yerin bulunduğu Devlette elde edildiği kabul olunacaktır.
7. Alacak karşılığında odenen faizin miktarı, ödeyici ile gerçek lehdar arasında veya her ikisi ile bir başka kişi arasında var olan özel ilişki nedeniyle, böyle bir ilişkinin olmadığı durumlarda ödeyici ve lehdar arasında kararlaştırılacak miktarı astığında, bu madde hukumleri yalnızca en son bahsedilen miktarla uygulanacaktır. Bu durumda ödemelerin ilave kısmı, bu anlaşmanın diğer hukumleri de dikkate alınarak, her bir Akit Devletin mevzuatına göre vergilendirilecektir.

Madde 12
GAYRIMADDI HAK BEDELLERİ

1. Bir Akit Devlette doğan ve diğer Akit Devletin bir mukimine odenen gayrimaddi hak bedelleri, bu diğer Devlette vergilendirilebilir.

2. Bununla beraber, sozkonusu gayrimaddi hak bedelleri, elde edildikleri Akit Devlette ve o Devletin mevzuatina gÖre de vergilendirilebilir, ancak gayrimaddi hak bedeli elde eden gayrimaddi hak bedelinin gerçek lehdari ise, bu sekilde alinacak vergi gayrimaddi hak bedelinin gayrisafi tutarinin yuzde 10'unu asmayacaktır. Akit Devletlerin yetkili makamlari, bu sinirlamanin uygulanma bicimini karsilikli anlasma yoluyla belirleyeceklerdir.
3. Bu maddede kullanilan gayrimaddi hak bedelleri terimi, sinema filmleri ile radyo ve evizyon yayinlarinda kullanilan kayitlar dahil olmak uzere, edebi, sanatsal veya bilimsel her nevi telif hakkinin, her nevi patentin, alameti farikanin, desen veya modelin, planin, gizli formul veya uretim yonteminin kullanimi veya kullanım hakki veya sinai, ticari veya bilimsel techizat ile sinai, ticari veya bilimsel tecrubeye dayali bilgi birikiminin kullanimi veya kullanma hakki karsiliginda yapılan her turlu odemeleri kapsar.
4. Bir Akit Devlet mukimi olan gayrimaddi hak bedelinin gerçek lehdari, sozkonusu bedelin elde edildigi diger Akit Devlette yer alan bir isyeri vasitasiyla ticari faaliyyette bulunursa veya bir Turkiye mukimi, Endonezya'da yer alan sabit bir yer vasitasiyla serbest meslek faaliyetinde bulunursa ve sÖzkonusu bedelin Ödendigi hak veya varlik ile bu isyeri veya sabit yer arasında Önemli bir bag bulunmaktaysa, 1inci ve 2nci fikra hukumleri uygulanmayacaktır. Bu durumda olayma gÖre, 7nci veya 14uncu madde hukumleri uygulanacaktır.
5. Bir Devletin kendisi, politik alt bÖlumu, mahalli idaresi veya mukimi tarafindan Ödenen gayrimaddi hak bedelinin, o Akit Devlette elde edildigi kabul olunacaktır. Bununla beraber, gayrimaddi hak bedelini odeyen kisi, bir Akit Devlette gayrimaddi hak bedelini odemeye neden olan hak veya varlik ile beglantili bir isyerine ve sabit yere sahip oldugunda ve gayrimaddi hak bedeli bu isyeri veya sabit yerden kaymaklandiginda, sozkonusu gasyrimaddi hak bedeli bu isyeri veya sabit yerin bulundugu Akit Devlette elde edildigi kabul olunacaktır.
6. Kullanim, hak veya bilgi karsiliginda odenen gayrimaddi hak bedelinin miktarı, odayici ile gerçek lehdar arasında veya her ikisi ile bir baska kisi arasında var olan ozel iliski nedeniyle, boyle bir iliskinin olmadigi durumlarda odayici ve gerçek lehdar arasında kararlastirilacak miktarı astiginda, bu madde hukumleri yalnızca en son bahsedilen mikтарa uygulanacaktır, Bu durumda odemelerin ilave kismi, bu Anlasmanin diger hukumleri de dikkate alınarak, her bir Akit Devletin mevzuati uyarinca vergilendirilecektir.

Madde 13 SERMAYE DEGER ARTIS KAZANCLARI

1. Bir Akit Devlet mukimince, diger Akit Devlette yer alan ve 6nci maddede belirtilen gayrimenkul varliklarin elden cikarimasindan saglanan kazanclar, bu diger Devlette vergilendirilebilir.
2. Bir Akit Devlet tesebbusunun diger Akit Devlette sahip oldugu bir isyerinin ticari varligina dahil menkul varliklarin veya bir Akit Devlet mukimin diger Akit Devlette serbest meslek faaliyeti icra etmek uzere kullandigi bir sabit yere ait menkul varliklarin elden cikarimasindan dogan kazanclar, bu isyerinin (yalnız veya tum tesebbusle birlikte) veya sabit yerin elden cikarimasindan dogan kazanc da dahil olmak uzere bu diger Devlette vergilendirilebilir.
3. Bir Akit Devlet mukimince, uluslararası trafikte isletilen gemi veya ucaklarin veya sozkonusu gemi veya ucaklarin isletilmesiyle ilgili menkul varliklarin elden cikarimasindan saglanan kazanclar yalnızca bu Devlette vergilendirilebilecektir.
4. 1, 2 ve 3 uncu fikralarda belirtilenlerin disinda kalan varliklarin elden

cikarilmasindan dogan kazarnclar, yalnızca elden cikaranin mukim oldugu Akit Devlette vergilendirilebilecektir. Bununla birlikte, bir onceki cumlede bahsedilen ve diger Akit Devletten elde edilen sermaye deger artis kazanclari, iktisap ve elden cikarma arasindaki sure bir yili asmadigi takdirde diger Akit Devlette vergilendirilebilecektir.

Madde 14

SERBEST MESLEK FAALİYETLERİ

1. Bir Akit Dvlet mukiminin, serbest meslek faaliyetleri veya bagimsiz nitelikleki diger faaliyetler dolayisiyla elde ettigi gelir, bu kisi diger Akit Devlette faaliyetlerini icra etmek icin surekli kullanabilecegi sabit bir yere sahip olmadikca veya herhangi bir 12 aylilik donemde toplam 183 gun veya daha fazla surelerde diger Devlette bulunmadikca, yalnızca bu Devlette vergilendirilecektir. Eger kisi boyle bir sabit yere sahip ise veya yukarıda belirtilen sure veya surelerde bu diger Devlette bulunursa, gelir yalnızca bu sabit yere atfedilen veya bu diger Devlette yukarıda belirtilen sure veya surelerde elde edilenlerle sinirli olmak uzere bu diger Devlette vergilendirilebilir.
 2. Serbest meslek faaliyetleri terimi, ozellikle bagimsiz olarak yurutulen bilimsel, edebi, sanatsal, egitici veya ogretici faaliyetleri, bunun yanisira doktorlarin, avukatlarin, muhendislerin, mimarlarin, discilerin ve muhasebecilerin bagimsiz faaliyetlerini kapsamina alir.

Madde 15

1. 16, 18, 19 ve 20 nci maddelerin hukumleri sakli kalmak uzere, bir Akit Devlet mukiminin bir hizmet dolayisiyla elde ettigi Ucret, maas ve diger benzeri odemeler, bu hizmet diger Akit Devlette ifa edilmedikce, yalnızca bu Devlette vergilendirilecektir. Hizmet diger Devlette ifa edilirse, buradan elde edilen sozkonusu gelir bu diger Devlette vergilendirilebilir.
 2. 1 inci fikra hukumlerine bakilmaksızın, bir Akit Devlet mukiminin diger Akit Devlette ifa ettigi bir hizmet dolayisiyla elde ettigi gelir, eger :
 - a) Gelir elde eden kisi, diger Devlette herhangi bir 12 aylık donemde bir yada bir kac seferde toplam 183 gunu asmamak uzere kalirsa; ve
 - b) Odeme. diger Devletin mukimi olmayan bir isveren tarafından veya boyle bir isveren adina yaplirsa; ve
 - c) Odeme, isverenin diger Devlette sahip oldugu bir isyeri veya sabit yerden yapilmazsa.
 3. yalnızca ilk bahsedilen Devlette vergilendirilecektir.
Bu maddenin bundan onceki hukumlerine bakilmaksızın, bir Akit Devlet tesebbusunun uluslararası trafikte bir gemi veya ucakta ifa edilen bir hizmet dolayisiyla elde edilen gelir, yalnızca bu Devlette vergilendirilecektir.

Madde 16

MUDURLERE YAPILAN ODEMELER

Bir Akit Devlet mukiminin, diger Akit Devletin mukimi olan bir sirketin yonetim kurulu üyesi olmasi dolayisiyla elde ettigi ucret ve diger benzeri odemeler, bu diger Devlette vergilendirilebilir.

Madde 17
SANATCI VE SPORCULAR

1. 14 uncu ve 15inci maddelerin hukumlerine bakilmaksızın, bir Akit Devlet mukimi olan tiyatro, sinema, radyo veya televizyon sanatçısının, bir muzisyen veya bir sporcunun diğer Akit Devlette icra ettiği bu nitelikteki sahси faaliyetleri dolayısıyla elde ettiği gelir, bu diğer Devlette vergilendirilebilir.
2. Bir sanatçının ya da sporcunun icra ettiği bu nitelikteki faaliyetlerden doğan gelir, sanatçının veya sporcunun kendisine değil de bir baskasına yöneltirse, bu gelir 7, 14 ve 15inci maddelerin hukumleriyle birlikte kalınlıksızın, sanatçı ya da sporcunun faaliyetlerinin icra edildiği Akit Devlette vergilendirilebilir.
3. Bir sanatçı veya sporcunun bir Akit Devlette icra ettiği faaliyetlerden elde ettiği gelir, bu Devlette yapılan ziyaretin tamamının veya önemli bir bölümünün diğer Akit devletin, politik alt olumunun veya mahalli idaresinin kamusal fonlarından desteklenmesi halinde, bu Devlette vergiden muaf tutulacaktır.

Madde 18
EMEKLI MAASLARI

1. 19 uncu maddenin 2nci fıkrası hukumleri saklı kalmak üzere, Akit Devletlerden birinin bir mukimine diğer Akit Devlette icra ettiği geçmiş çalışmalarının veya hizmetlerinin karşılığında bu diğer Akit Devletteki bir kaynaktan odenen emekli maaslari ve benzeri diğer ödemeler ile bu kişiye söz konusu kaynaktan yapılan herhangi bir düzenli ödeme bu diğer Devlette vergilendirilebilir.
2. Ugranılan sahси zararları tazmin etmek üzere, bir Akit Devlet veya politik alt bolumu tarafından odenen emekli maaslari ve sağlanan omur boyu gelirler ile yapılan diğer devamlı veya arıza ödemeler, bu Devlette vergilendirilebilir.
3. Düzendili ödeme terimi, para veya parayla ölçülebilir bir menfaat karşılığında tam ve yeterli ödemede bulunma taahhudune bağlı olarak, omur boyu veya belirli ya da belirlenebilir bir süre, belirli zamanlarda düzenli olarak ödenecek toplam meblagi ifade eder.

Madde 19
KAMU HİZMETİ

1. a) Bir Akit Devlette, politik alt bolumune veya mahalli idaresine bir gerçek kişi tarafından verilen hizmetler karşılığında bu Devlet, alt bolum veya idare tarafından yapılan, emekli maasi dışında kalan ödemeler yalnızca bu Devlette vergilendirilecektir.
b) Bununla birlikte, bu hizmet diğer Devlette sunulduğunda ve gerçek kişi bu Devlette bir mukimi olduğunda, söz konusu ödemeler yalnızca bu diğer Akit Devlette vergilendirilecektir. Ancak bu kişinin:
 - i) Bu Devlette bir vatandaşlığı olması; veya
 - ii) Yalnızca bu hizmeti ifa etmek için bu Devlette bir mukimi durumuna gecmemesi olması.Zorunludur.
2. a) Bir Akit Devlette, politik alt bolumune veya mahalli idaresine bir gerçek kişi tarafından verilen hizmetler karşılığında bu Devlet, alt bolum veya idare tarafından veya bunlarca oluşturulan fonlardan odenen emekli maaslari, yalnızca bu Devlette vergilendirilecektir.
b) Bununla birlikte, söz konusu gerçek kişinin bu Devlette bir mukimi ve

vatandası olmasının halinde, söz konusu emekli maaşı yalnızca bu diğer Devlette vergilendirilecektir.

3. Bir Akit Devlet, politik alt bolum veya mahalli idare tarafından yürüttülen ticari faaliyetlerle bağlantı hizmetleri karşılığında sağlanan maaş, ücret ve diğer benzeri ödemeler ile emekli maaşlarına 15, 16 ve 18inci maddelerin hükümleri uygulanacaktır.

Madde 20 OGRETMENLER VE OGRENCILER

1. Bir Akit Devletin vatandaşlığı olan ve diğer Akit Devlette yainizca öğrenim veya mesleki eğitim amacıyla bulunan bir öğrenci veya stajyer, gecim, öğrenim veya mesleki eğitimlerini sağlayabilmeleri için bu diğer Devlette dışındaki kaynaklardan yapılan ödemeler, bu diğer Devlette vergilendirilmeyecektir.
2. Aynı şekilde, bir Akit Devletin vatandaşlığı olan ve diğer Akit Devlette kesintisiz iki yılı aşmayan bir sure veya süreler için, öğretim veya bilimsel araştırma yapmak amacıyla bulunan bir öğretmen veya öğrencinin, öğretim veya araştırma karşılığında kişisel hizmetleri dolayısıyla bu diğer Devlette dışındaki kaynaklardan elde ettiği gelirler, bu diğer Devlette vergiden istisna edilecektir.
3. Bir Akit Devletin vatandaşlığı olup, diğer Akit Devlette öğrenimi veya meslegi ile ilgili uygulama alışkanlıklarını kazanmak üzere bir takwin yılı içinde 183 gün asmayacak sure veya sürelerde hizmet ifa eden bir öğrenci veya stajyerin elde ettiği ücretler, bu diğer Devlette vergilendirilmeyecektir.

Madde 21 Diger GELIRLER

Bir Akit Devlet mukiminin, bu Anlasmanın daha önceki maddelerinde açıkça belirtilmeyen gelir unsurları, yalnızca bu Devlette vergilendirilecektir. Ancak söz konusu gelir diğer Akit Devletin kaynaklarından elde edilirse, bu gelir, aynı zamanda bu diğer Devlette de vergilendirilebilir.

Madde 22 CIFTE VERGILENDIRMENIN ONLENMESI

1. Türkiye mukimleri için çift vergilendirme aşağıdaki şekilde onlenecektir :
 - a) Bir Türkiye mukimi, (b) bendinde kavrana gelirler hariç olmak üzere, bu Anlaşma hükümlerine göre, Endonezya'da vergilendirilebilir bir gelir elde ettiğinde, Türkiye, bu geliri vergiden muaf tutacak; ancak, bu kişinin geriye kalan gelirine ilişkin vergiyi hesaplarken, muaf tutulan geliri vergiden muaf degilmiş gibi dikkate alarak bir vergi oranı uygulayabilecektir.
 - b) Bir Türkiye mukimi, bu Anlasmanın 10, 11 ve 12inci maddeleri ile 13uncu maddesinin 4uncu fıkrasına göre Endonezya'da vergilendirilebilir bir gelir elde ettiğinde, Türkiye, bu kişinin gelirine isabet eden vergiden, Endonezya'da odenen verginin mahsubuna müsaade edecektir.

Bununla birlikte söz konusu mahsup, Endonezya'da vergilendirilebilir gelir için, mahsuptan önce hesaplanan vergi miktarını asmayacaktır.

2. Endonezya mukimleri için cıflı vergilendirme aşağıdaki şekilde onlenecektir: Bir Endonezya mukiminin, bu Anlaşma hükümlerine göre, Türkiye de elde ettiği gelirleri dolayısıyla Türkiye'de gelir üzerinden ödediği vergi tutarı, bu mukimin Endonezya'da ödeyeceği vergiden mahsup edilecektir. Bununla birlikte mahsup miktarı, söz konusu gelir için Endonezya vergi kanularına ve düzenlemelerine

gore hesaplanan vergi miktarini asmayacaktir.

Madde 23
AYRIM YAPILMAMASI

1. Bir Akit Devletin vatandaslari, diger Akit Devletin vatandaslarinin ayni kosullarda karsi karsiya kaldiklari veya kalabilecekleri vergilemeden ve buna bagli mukellefiyetlerden, ozellikle mukimlik acisindan, degisik veya daha agir bir vergilemeye ve buna bagli mukellefiyetlere tabi tutulmayacaklardir.
2. 10 uncu maddenin 4 uncu fikrasi hukumleri sakli kalmak uzere, bir Akit Devlet tesebbusunun diger Akit Devlette sahip oldugu bir isyeri, diger Devlette bu diger Devletin ayni faaliyetleri yuruten tesebbuslerine gore daha az lehe bir vergileme ile karsi karsiya kalmayacaktir.
3. Bir Akit Devletin, diger Akit Devletin bir veya bir kac mukimi tarafindan dogrudan dogruya veya dolayh olarak, kismen veya tamamen sermayesine sahip olunan veya kontrol edilen tesebbusleri, ilk bahsedilen Devlette, bu Devletin benzeri tesebbuslerinin tabi olduklari veya olabilecekleri vergilemeden ve buna bagli mukellefiyetlerden degisik veya daha agir bir vergilemeye ve buna bagli mukellefiyetlere tabi tutulmayacaklardir.
4. Bu hukumler, bir Akit Devletin kendi mukimlerine sahsi veya ailevi durumları dolayisiyla uyguladigi sahsi indirimleri, vergi ve matrah indirimlerini diger Akit Devlet mukimlerine de uygulama zorunda oldugu yonunde anlasilmayacaktir.

Madde 24
KARSILIKLI ANLASMA USULU

1. Bir Akit Devlet mukimi, Akit Devletlerden birinin veya her ikisinin islemlerinin kendisi icin bu Anlasmanin hukumlerine uygun dusmeyen bir vergileme yarattigi veya yaratracagi kanaatine vardiginda, bu Devletlerin ic mevzuatlarında ongorulen muracaat usulleriyle bagli kalmaksizin, durumu mukimi oldugu Akit Devletin yetkili makamina veya durumu 23 uncu maddenin 1 inci fikrasina uygun dusurse, vatandası oldugu Akit Devletin yetkili makamina arzedebilir.
2. Sozkonusu yetkili makam, itirazi hakli bulmakla beraber kendisi tatminkar bir cozume ulasamadigi takdirde, bu Anlasmaya ters dusen bir vergilemeyi onlemek amaciyla, diger Akit Devletin makamiyla karsilikli anlasmaya gayret sarfedecektir.
3. Akit Devletlerin yetkili makamlari, bu Anlasmanin yorumundan veya uygulanmasından kaynaklanan her turlu guclugu veya tereddutu karsihkli anlasmayla cozmek icin gayret gostereceklerdir. Yetkili makamalar ayni zamanda, Anlasmada ele alinmayan durumlardan kaynaklanan cifle vergilendirmenin ortadan kaldırılması icin de birbirlerine danisabilirler.
4. Akit Devletlerin yetkili makamlari, bundan onceki fikralarda belirtilen hususlarda anlasmaya varabilmek icin birbirleriyle dogrudan dogruya haberlesebilirle. Yetkili makamlar, bu maddede belirtilen karsilikli anlasma prosedurunun uygulanmasi icin ikili prosedurleri, sartlari, metot ve teknikleri istisareler yoluyla gelistireceklerdir.

Madde 25
BILGI DEGISIMI

1. Akit Devletlerin yetkili makamlari, bu Anlasma hukumlerinin yururulmesi icin

gerekli olan bilgileri veya Anlasma ile uyumsuzluk gostermedigi surece, Anlasma kapsamina giren vergiler ile ilgili Akit Devletlerin ic mevzuat hukumlerinin yurutulmesi icin gerekli olan bilgileri degisime tabi tutacaklardir. Bir Akit Devlet tarafindan alınan her turlu bilgi, o Devletin kendi ic mevzuati cercevesinde elde ettigi bilgiler gibi gizli tutulacak ve yalnızca bu Anlasmada belirtilen vergilerin tahakkuk veya tahsilleri veya cebri icra ya da cezasiyla ve bu hususlardaki şikayet ve itirazlara bakmakla gorevli kisi veya makamlara (adli makamlar ve idari kuruluslar dahil) verilebilecektir. Bu kisi veya makamlar sozkonusu bilgileri yalnızca bu amaclar doğrultusunda kullanacaklardır. Bu kisi veya makamlar sozkonusu bilgileri mahkeme durusmalarında veya adil kararlar alınırken aciklayabilirler.

2. 1inci fikra hukumleri, hicbir surette bir Akit Devleti :
 - a) Kendisinin veya diger Akit Devletin mevzuatina veya idari uygulamalarına uymayacak idari onlemler alma;
 - b) Kendisinin veya diger Akit Devletin mevzuati veya normal idari islemleri cercevesinde elde edilemeyen bilgileri sunma;
 - c) Herhangi bir ticari, sinai, mesleki sirri veya ticari islemi aleni hale getiren bilgileri veya aleniyeti kamu duzenine aykiri dusen bilgileri verme Yukumluluğu altına sokacak sekilde yorumlanmayacaktır.

Madde 26

DIPLOMAT HUVIYETINDEKI MEMURLAR VE KONSOLOSLUK MEMURLARI

Bu Anlasma hukumleri, diplomat huviyetindeki memurların ve konsolosluk memurlarının uluslararası hukukun genel kuralları ve özel anlasma hukumları uyarınca yararlandıkları mali ayrıcalıkları etkilemeyecektir.

Madde 27

YURURLUGE GIRME

1. Her bir Akit Devlet, bu Anlasmanın yururluge girmesi için kendi iç mevzuatında ongöruilen islemlerin tamamlandığını diğerine bildirecektir. Bu Anlasma, bu bildirimlerden sonucusunun alındığı tarihte yururluge girecektir.
2. Bu Anlasma hukumleri :
 - a) Kaynakta tevkif edilen vergiler yonundan, bu Anlasmanın yururluge girdiği tarihi izleyen Ocak ayının birinci günü veya daha sonra odenen veya mahsup edilen miktarlar için; ve
 - b) Diger vergiler yonundan, bu Anlasmanın yururluge girdiği tarihi izleyen Ocak ayının birinci günü veya daha sonra başlayan vergilendirme yılları için hukum ifade edecektir.

Madde 28

YURURLUKTEN KALKMA

Bu Anlasma, bir Akit Devlet tarafından feshedilinceye kadar yururlukte kalacaktır. Her bir Akit Devlet, Anlasmanın Yururluge girdiği tarihten sonraki bes yıllık bir surenin bitiminden sonra başlayan herhangi bir takvim yılının sona ermesinden en az altı ay önce diplomatik yollardan yazılı fesih ihbarnamesi vermek suretiyle Anlasmayı feshedebilir. Bu durumda Anlasma :

- a) Kaynakta tevkif edilen vergiler yonundan, fesih ihbarnamesinin verildiği tarihi izleyen Ocak ayının birinci günü veya daha sonra odenen veya mahsup edilen

miktarlar icin; ve

- b) Diger vergiler yonunden, fesih ihbarnamesinin verildigi tarihi izleyen Ocak ayinin birinci gunu veya daha sonra baslayan vergilendirme yillari icin hukum ifade etmeyecektir
BU HUSUSLARI TEYIDEN, asagida imzalari bulunan tam yetkili temsiciler, bu Anlasmayi imzaladilar ve muhurlerini vazettiler.
Endonezya, Turk ve Ingiliz dillerindeki nushalarda, her uc metin de ayni derecede gecerli olmak uzere, Cakarta tarihinde, 25 SUBAT 1997 da duzenlenmistir.
Metinler arasında farklilik olmasi halinde, Ingilizce metin gecerli olacaktir.

ENDONEZYA CUMHURIYETI
HUKUMETI ADINA
ttd

TURKIYE CUMHURIYETI
HUKUMETI ADINA
ttd

PROTOKOL

Turkiye Cumhuriyeti ile Endonezya Cumhuriyeti arasında bogun sonuclandirilan Gelir Uzerinden Alinan Vergilerde Cifte Vergilendirmeyi Onleme ve Vergi Kacakciligina Engel Olma Anlasmasinin imzalanmasi sirasinda, imzalayan taraflar, asagidaki hukumlerin Anlasmanin ayrimaz bir parcasini olusturdugu hususunda anlasmislardir.

1. 5 inci Maddeye iliskin olarak :
Tesebbus olanaklarinin yalnızca mal veya ticari esyanin teslimi amaciyla kullanilmasi ve mal veya ticari esya stoklarinin yalnızca teslim amaciyla elde tutulmasinin, bu Anlasmanin amacları yonunden bir isyeri olarak kabul edilmeyecegi anlasilmaktadir.
Bunun aksine, bu sekildeki duzenli teslim durumu ile tesebbus adina hereket eden bagimsiz statudeki acente disinda, bir kisinin diger Akit Devlette duzenli olarak mal veya ticari esya stoku bulundurmasi durumunda, bu Anlasmanin amacları bakimindan isyerinin varligi kabul edilecektir.
2. 10 uncu Maddeye iliskin olarak :
Bu maddenin 4 uncu fikra hukumleri, Turkiye'de mukim olan bir kisi ile endonezya Hukumeti, onun birimleri, ilgili devlet petrol veya gaz sirketi veya bunların herhangi bir tuzel kurumu arasında yapılan uretim paylasim sozlesmesinde veya petrol ve gaz sektoru veya diger madencilik sektorleriyle ilgili benzeri sozlesmelerde ihtiva edilen hukumleri etkilemeyecektir.
3. 16 nci Maddeye iliskin olarak :
Sirketin yonetim kurulu uyesi terimi, bir Endonezya sirketinin genel mudurleri (anggota pengurus) ile denetci mudurlerini (anggota dewan komisaris) de kapsayacaktir.
4. 24 uncu Maddeye iliskin olarak :
Hizmet Ticareti Genel Anlasmasinin 22 nci maddesinin 3 uncu fikrasinin (Danisma) amacları yonunden, Akit Devletler, bu fikra ile bagli kalmaksızın, bir tedbirin bu Anlasma kapsamında yer alip almadığı konusundaki her turlu ihtilafi, her iki Akit Devletin de rizasi olması koşuluyla, bu fikrada belirlendiği şekilde Hizmet Ticareti Konseyine goturebilir. Bu fikranın yorumu ile ilgili her turlu tereddut 24 Uncu maddenin 3 Uncu fikrasi çerçevesinde cozumlenecek veya bu yonteme gore uzlasma saglanamaması halinde, ihtilaf her iki Akit Devletin de kabul eliği diğer herhangi bir yonteme gore cozumlenecektir.
BU HUSUSLARI TEYIDEN, asagida imzalari bulunan tam yetkili temsilciler, bu Protokolu imzaladilar ve muhurlerini vazettiler.
Endonezya, Turk ve Ingiliz dillerindeki nushalarda, her uc metin de ayni derecede

gecerli olmak üzere, Cakarta tarihinde, 25 SUBAT 1997 da düzenlenmiştir.
Metinler arasında farklılık olması halinde, İngilizce metin geçerli olacaktır.

ENDONEZYA CUMHURIYETI
HUKUMETI ADINA

ttd

TURKIYE CUMHURIYETI
HUKUMETI ADINA

ttd