রেজিস্টার্ড নং ডি এ-১

বাংলাদেশ গেজেট

অতিরিক্ত সংখ্যা

কর্তৃপক্ষ কর্তৃক প্রকাশিত

বৃহস্পতিবার, মে ৩, ২০০৭

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গণপ্রজাতন্ত্রী বাংলাদেশ সরকার

অর্থ মন্ত্রণালয়

অভ্যন্তরীণ সম্পদ বিভাগ

(আয়কর)

প্রজ্ঞাপন

তারিখ, ১৩ বৈশাখ ১৪১৪/২৬ এপ্রিল ২০০৭

এস, আর, ও নং ৬০-আইন/২০০৭—যেহেতু, বাংলাদেশে প্রচলিত The Income Tax Ordinance, 1984 (XXXVI of 1984) এবং ইন্দোনেশিয়া প্রজাতন্ত্রে প্রচলিত এতদ্‌সংক্রান্ত আইনের অধীনে দ্বৈত করারোপণ পরিহার এবং আয়ের উপর কর সম্পর্কিত রাজস্ব ফাঁকি প্রতিরোধের উদ্দেশ্যে গণপ্রজাতন্ত্রী বাংলাদেশ সরকার এবং ইন্দোনেশিয়া প্রজাতন্ত্র সরকারের মধ্যে ১৯ জুন, ২০০৩ তারিখে নিম্ন তফসিলে বর্ণিত চুক্তি সম্পাদিত হইয়াছে; এবং

যেহেতু, উক্ত চুক্তির বিধানাবলী বাংলাদেশে কার্যকর করা প্রয়োজন;

সেহেতু, The Income Tax Ordinance, 1984 (XXXVI of 1984) এর section 144 এ প্রদত্ত ক্ষমতাবলে সরকার এতদ্দ্বারা নিম্ন তফসিলে বর্ণিত চুক্তির বিধানাবলী ১ জুলাই, ২০০৭ খ্রিষ্টাব্দ তারিখে আরব্ধ কর বৎসর হইতে বাংলাদেশে কার্যকর হইবে মর্মে বিধান করিল, যথা ঃ—

AGREEMENT

BETWEEN

THE GOVERNEMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

AND

মূল্য ঃ টাকা ১২.০০

THE GOVERNEMENT OF THE REPUBLIC OF INDONESIA

FOR

THE AVOIDANCE OF DOUBLE TAXATION

AND

THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES
ON INCOME

The Government of the People's Republic of Bangladesh and the Government of the Republic of Indonesia

DESIRING to conclude and 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 by or on behalf of a Contracting State or its 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.

3. The existing taxes to which this Agreement shall apply are :

   (a) in the case of Indonesia :

   the income tax imposed under the Undang-undang Pajak Penghasilan 1984 (Law Number 7 of 1983 as amended) (hereinafter referred to as "Indonesian tax").

   (b) in the case of Bangladesh :

   the income tax
   (hereinafter referred to as "Bangladesh tax");

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

Article 3
GENERAL DIFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires :

(a) the term "Indonesia" means the territory of the Republic of Indonesia as defined in its laws ;

(b) the term "Bangladesh" means all the territory of the People's Republic of Bangladesh including the part of the seabed and its sub-soil, to the extent that the area in accordance with international law has been or may hereafter be designated under Bangladesh law as an area within which Bangladesh may exercise sovereign rights with respect to the exploration and exploitation of the natural resources of the seabed or its sub-soil;

(c) the terms "a Contracting State" and "the other Contracting State" mean Indonesia or Bangladesh as the context requires, and the term "Contracting States" means Indonesia or Bangladesh;

(d) the term "tax" means any tax covered by Article 2 of this Agreement;

(e) the term "person" includes an individual, a company and any other body of persons;

(f) the term "Company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(g) 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;

(h) the term "Competent authority" means :

(1) in the case of Indonesia, the Minister of Finance or its authorised representative.

(2) in the case of Bangladesh, the National Board of Revenue or its authorised representative;

(i) the term "national" means all individuals possessing the nationality or citizenship of the respective Contracting States and also any legal person, partnership and association deriving their status as such from the laws in force in the respective Contracting States;

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(j) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which is a resident 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 this Agreement by a Contracting State, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State, relating to the taxes to which this Agreement applies.

Article 4
RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that Contracting State, is liable to tax therein by reason of his domicile, residenece, 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 Contracting State in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);

(b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;

(c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;

(d) if he is a national of both Contracting 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 Contracting State in which its place of effective management is situated.

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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 of a Contracting State is wholly or partly carried on in the other Contracting State.

2. The term "permanent establishment" includes especially :

   (a) a place of management;

   (b) a branch;

   (c) an office;

   (d) a factory;

   (e) a workshop;

   (f) a warehouse, in relation to a person providing storage facilities for others;

   (g) a farm of plantation; and

   (h) a mine, an oil or gas well, a quarry or any other place of extraction or exploration of natural resources, drilling or working ship.

3. 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 for a period of more than 183 days;

   (b) the furnishing of services, including consultancy services by an enterprise trough 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 91 days within any twelve months 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 purposes 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;

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(e) the maintenance of a fixed place of business solely for the purpose of advertising, or for the supply of information for scientific research of for similar activities which have a preparatory or auxiliary character for the enterprise;

(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 resulting 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 person :

(a) has, and habitually exercise, in the first-mentioned Contracting State a general authority to conclude contracts for or on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for or on behalf of the enterprise; or

(b) habitually maintains in the first-mentioned Contracting State a stock of goods or merchandise belonging to the enterprise from which he regularly delivers goods or merchandise for or on behalf of the enterprise; or

(c) habitually secures orders for the sale of goods or merchandise in the first-mentioned Contracting State, wholly for the enterprise itself, or for the enterprise or other enterprises which are controlled by it or have a controlling interest in it; or manufactures or processes in that Contracting State for the enterprise goods or merchandise belonging to 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 Contracting 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 Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other;

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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 Contracting State.

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

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

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

Article 7
BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that Contracting 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 Contracting 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.

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3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere, but this does not include any expenses which under the law of that Contracting State would not be allowed to be deducted by an enterprise of that Contracting State.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.

5. No profits shall be Attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8
SHIPPING AND AIR TRANSPORT

1. Income of an enterprise of a Contracting State from the operation of aircraft in international traffic shall be taxable only in that Contracting State.

2. Income of an enterprise of a Contracting State derived from the other Contracting State from the operation of ships in international traffic may be taxed in that other Contracting State, but the tax chargeable in that other Contracting State on such income shall be reduced by an amount equal to fifty per cent of such tax.

3. The provisions of paragraphs 1 and 2 shall also apply to profits derived from the participation in a pool, a joint business or an international operating agency.

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Article 9

ASSOCIATED ENTERPRISES

Where

(a) an enterprise of a Contracting State Participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

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

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

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

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other Contracting 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 Contracting 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 which holds directly at least 10 percent of the capital of the company paying the dividends;

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(b)15 percent of gross amount of the dividends in all cases.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares, mining shares, founder's 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 Contracting State of which the company making the distribution is a resident.

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

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

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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 Contracting State.

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of the Contracting 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.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and derived by the Government of the other Contracting State including local authorities thereof, a political subdivision, the Central Bank or any financial institution controlled by that Government, the capital of which is wholly owned by the Government of the other Contracting State as may be agreed upon from time to time between the competent authorities of the Contracting States shall be exempt from tax in the first-mentioned Contracting State.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from Government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other Contracting State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

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

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

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

5. Royalties shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a local authority or a resident of that Contracting State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last mentioned amount. In such case, the excess part of the 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. Capital gains from the alienation of immovable property, as defined in paragraph 2 of Article 6 or from the alienation of shares in a company the assets of which consist principally of immovable property may be taxed in the Contracting State in which such property is situated.

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2. Capital 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 Contracting State.

3. Capital gains 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 the Contracting State of which the enterprise is a resident.

4. Capital 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.

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 Contracting State. However, in the following circumstances such income may be taxed in the other Contracting State :

   (a) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in the other Contracting State; or

   (b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in the fiscal year concerned; in that case only, so much of the income as is derived from his activities performed in that other Contracting State may be taxed in that other Contracting State.

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

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Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21 salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that Contracting 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 Contracting 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 Contracting State if :

   (a) the recipient is present in the other Contracting State for a period, or periods not exceeding in the aggregate 183 days in the taxable year concerned; and

   (b) the remuneration is paid by or on behalf of an employer who is not a resident of the other Contracting State; and

   (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other Contracting State.

3. Notwithstanding the preceding provisions of this Article, remuneration 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 Contracting State.

Article 16

DIRECTOR'S FEES

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

2. The remuneration which a person to whom paragraph 1 applies derived from the company in respect of the discharge of day-to-day functions of a managerial or technical nature may be taxed in accordance with the provisions of Article 15.

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Article 17

ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artist, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may by taxed in that other Contracting State.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. The provisions of paragraphs (1) and (2) of this Article shall not apply to services of entertainers and athletes if their visit to a Contracting State is supported wholly or substantially from public funds of the other Contracting State.

Article 18

PENSIONS

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that Contracting State.

Article 19

GOVERNMENT SERVICE

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

   (b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that Contracting State and the individual is a resident of that Contracting State who:

      (i) is a national of that Contracting State; or

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(ii) did not become a resident of that Contracting State solely for the purpose of rendering the services.

2. (a) Any pension paid by, or out of funds created by, a Contracting State or a local authority thereof to an individual in respect of services rendered to that Contracting State or local authority shall be taxable only in that Contracting 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 Contracting State.

3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a local authority thereof.

Article-20

TEACHERS

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

Article-21

STUDENTS AND APPRENTICES

1. An individual who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first mentioned Contracting State solely as a student at a recognized university, college, school or other similar recongnized educational institution in the first-mentioned Contracting State or as a business or technical apprentice therein, for a period not exceeding five years from the date of his first arrival in the first-mentioned Contracting State in connection with that visit shall be exempt from tax in that first-mentioned Contracting State on:

(a) all remittances from abroad for the purposes of his maintenance, education or training; and

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(b) any remuneration for personal services rendered in the first-mentioned Contracthing State with a view to supplementing the resources available to him for such purposes.

2. An individual who was a resident of a Contracting State immediately before visiting the other Contracting State and is temporarily present in that other Contracting State solely for the purpose of study, research or training as a recipient of a grant, allowance or award from a scientific, edcuational, religious or charitable organization or under a technical assistance programme entered into by the Government of a Contracting State shall, from the date of his first arrival in that other Contracting State in connection with that visit be exempt from tax in that other Contracting State:

(a) on the amount of such grant, allowance or award; and

(b) on all remittances from abroad for the purposes of his maintenance, education or training.

Article-22

OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising not dealt with on the forgoing Artcles of this Agreement, other than income in the form of lotteries prizes shall be taxable in that Contracting State.

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

Article 23

METHOD FOR ELIMINATION OF DOUBLE TAXATION

Where a resident of a Contracting State derives income from the other Contracting State, the amount of tax on that income payable in that other Contracting State in accordance with the provisions of this Agreement, may be credited against the tax levied in the first-mentioned Contracting State imposed on that resident. The amount of credit, however, shall not exceed the amount of the tax in the first-mentioned Contracting State on that income computed in accordance with its taxation laws and regulations.

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Article 24

NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected which there with which is other or more burdensome than the taxation and connected requirements to which nationals of that other Contracting State in the same circumstanes are or may be subjected. This provision shall, notwithstanding the provisions of Artcle 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

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

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned Contracting State are or may be subjected.

5. In this Artile the term "taxation" means which are the subject of this Agreement.

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Article 25

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for in taxation not in accordance with the provisions of this Agreement, he may irrespective of the remedies provided by the domestic law of those Contracting 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 Artcle 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Agreement. Any agreement reached shall be implemented notwithstanding any time limit in the domestic law of Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together for the elimination of double taxation in cases not provided for this Agreement.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a commission consisting of representatives of the competent authorities of the Contracting States.

Article 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by this Agreement in so far as the taxation thereunder is not contrary to this Agreement. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that Contracting State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respest of or the determination of appeals in relation to, the taxes covered by

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this 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 adminstrative 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 the other Contracting State;

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

Article 27

DIPLOMATIC AGENTS AND CONSULAR OFFICERS

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

Article 28

ENTRY INTO FORCE

1. Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Agreement.

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

(a) in Indonesia :

(i) in respect of tax withheld at the source to income derived on or after 01 January in the year next following that in which this Agreement enters into force; and

(ii) in respect of other taxes on income, for taxable year beginning on or after 01 January in the year next following that in which this Agreement enters into force.

(b) in Bangladesh : in respect of taxes, for any year of assessment beginning on or after 01 July in the calendar year next following that in which this Agreement enters into force.

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Article 29

TERMINATION

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

   (a) in Indonesia :

      (i) in respect of tax withheld at source to income derived on or after 01 January in the year next following that in which the notice of termination is given;

      (ii) in respect of other taxes on income, for taxable year beginning on or after 01 January in the year next following that in which the notice of termination is given.

   (b) in Bangladesh : in respect of taxes, for any year of assessment beginning on or after 01 July in the calendar year next following that in which the notice is given.

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

DONE in duplicate at **Dhaka** this day of 19th June 2003, in the English language.

FOR THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF **BANGLADESH**	FOR THE GOVERNMENT OF THE REPUBLIC OF **INDONESIA**
SD/(Md. Saifur Rahman)	SD/**(Rini M Sumarno Soewandi)**
Minister	Minister for Industry and Trade
Ministry of Finance and Ministry of Planning	

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PROTOCOL

At the signing of the Agreement between the Government of the People's Republic of Bangladesh and the Government of the Republic of Indonesia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income the undersigned have agreed upon the following provisions which shall form an integral part of the Agreement :

1. With reference to Article 7:

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

2. With reference to Article 7:

The provision of paragraph 1 shall not affect the provision contained in any production sharing contract and contracts of work (or any other similar contracts) relating to oil and gas sector concluded by the Government of a Contracting State, its instrumentality, its relevant state oil and gas company or any other entity thereof with a person who is a resident of the other Contracting State.

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

DONE in duplicate at **Dhaka** this day of 19th June 2003, in the English language.

FOR THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF **BANGLADESH**

SD (Md. Saifur Rahman)
Minister
Ministry of Finance and Ministry of Planning

FOR THE GOVERNMENT OF THE REPUBLIC OF **INDONESIA**

SD (Rini M Sumarno Soewandi)
Minister for Industry and Trade

রাষ্ট্রপতির আদেশক্রমে

আলী আহমদ
অতিরিক্ত সচিব (পদাধিকারবলে)।

এ, কে, এম রফিকুল ইসলাম (উপ-সচিব), উপ-নিয়ন্ত্রক, বাংলাদেশ সরকারী মুদ্রণালয়, ঢাকা কর্তৃক মুদ্রিত।
মোঃ আখ্‌তার হোসেন (উপ-সচিব), উপ-নিয়ন্ত্রক, বাংলাদেশ ফরম ও প্রকাশনা অফিস, তেজগাঁও, ঢাকা কর্তৃক প্রকাশিত।

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