

AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF INDONESIA

AND

THE GOVERNMENT OF THE REPUBLIC OF ZIMBABWE

FOR

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

The Government of the Republic of Indonesia

and

the Government of the Republic of Zimbabwe

DESIRING to conclude an Agreement, for the avoidance of double taxation and the
prevention of fiscal evasion with respect to taxes on income and capital gains,

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 each Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property.
3. The existing taxes to which the Agreement shall apply are
 - (a) in 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 Zimbabwe :
 - i) the income tax;
 - ii) the branch profit tax;
 - iii) the non-resident shareholders' tax;
 - iv) the non-residents' tax on interest;
 - v) the non-residents' tax on fees;
 - vi) the non-residents' tax on royalties;
 - vii) the capital gains tax; and
 - viii) the residents' tax on interest

(hereinafter referred to as "Zimbabwean 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 any substantial changes which have been made in their respective taxation laws.

Article 3 GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:
 - (a) (i) the term "Indonesia" means the territory of the Republic of Indonesia as defined in its laws;
 - (i) the term "Zimbabwe" means the Republic of Zimbabwe;
 - (b) the term "person" includes an individual, an estate, a trust, a company and any other body of persons which is treated as an entity for tax purposes;
 - (c) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - (d) 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;
 - (e) 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;
 - (f) the term "competent authority" means :
 - (i) in Indonesia:
the Minister of Finance or his authorized representative;
 - (ii) in Zimbabwe:
the Commissioner of Taxes or his authorised representative;
 - (g) the term "national" means:
 - (i) in the case of Indonesia:
 - any individual possessing the nationality of Indonesia;
 - any legal person, partnership and association deriving its status as such from the laws in force in Indonesia.

- (c) in the case of Zimbabwe:
 - any individual possessing the nationality of Zimbabwe;
 - any legal person or association deriving its status as such from the laws in force in Zimbabwe.

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 laws of that State concerning the taxes to which the Agreement applies.

Article 4 RESIDENT

1. For the purpose of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.
2. Where by reason of the provisions of paragraph 1 of this Article 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 of this Article a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall settle the question by mutual agreement.

Article 5 PERMANENT ESTABLISHMENT

1. For the purposes of this 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 or premises used as sales outlet;
- (g) a farm or plantation;
- (h) a mine, an oil or gas well, a quarry or any other place of extraction or exploration or exploitation of natural resources, drilling rig 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 6 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 the 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