

No. 30506

**SWITZERLAND
and
INDONESIA**

**Agreement for the avoidance of double taxation with respect
to taxes on income (with protocol). Signed at Berne on
29 August 1988**

Authentic texts: French, Indonesian and English.

Registered by Switzerland on 24 November 1993.

**SUISSE
et
INDONÉSIE**

**Convention en vue d'éviter les doubles impositions en matière
d'impôts sur le revenu (avec protocole). Signée à Berne le
29 août 1988**

Textes authentiques : français, indonésien et anglais.

Enregistrée par la Suisse le 24 novembre 1993.

AGREEMENT¹ BETWEEN THE SWISS CONFEDERATION AND
THE REPUBLIC OF INDONESIA FOR THE AVOIDANCE OF
DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME

THE SWISS FEDERAL COUNCIL

AND

THE GOVERNMENT OF THE REPUBLIC OF INDONESIA

DESIRING to conclude an Agreement for the avoidance of double
taxation 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.

¹ Came into force on 24 October 1989 by the exchange of the instruments of ratification, which took place at Jakarta, in accordance with article 25 (2).

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, as well as taxes on capital appreciation.

3. The existing taxes to which the Agreement shall apply are in particular:

a) in Indonesia:

the income tax (Pajak Penghasilan) including the company tax and any withholding tax, prepayments or advance payment with respect to the aforesaid tax (hereinafter referred to as "Indonesian tax");

b) in Switzerland:

the federal, cantonal and communal taxes on income (total income, earned income, income from capital, industrial and commercial profits, capital gains, and other items of income) (hereinafter referred to as "Swiss 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 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) the term "Indonesia" comprises the territory of the Republic of Indonesia as defined in its laws and the adjacent areas over which the Republic of Indonesia has sovereign rights or jurisdiction in accordance with international law;
- b) the term "Switzerland" means the Swiss Confederation;
- c) the term "a Contracting State" and "the other Contracting State" means Indonesia or Switzerland, as the context requires;
- d) the term "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 terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- g) the term "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;
- h) the term "nationals" means:
 - (i) all individuals possessing the nationality of a Contracting State;
 - (ii) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State;

i) the term "competent authority" means:

(i) in Indonesia, the Minister of Finance or his authorized representative, and

(ii) in Switzerland, the Director of the Federal Tax Administration or his authorized representative;

j) the term "tax" means Indonesian tax or Swiss tax, as the context requires.

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 purposes 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 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