

Canada/Mexico Tax Treaty (1991)

Convention Between the Government of Canada and the Government of the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income

The Government of Canada and the Government of the United Mexican States, desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

I. SCOPE OF THE CONVENTION

Article 1 PERSONAL SCOPE

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

Article 2 TAXES COVERED

1. This Convention shall apply to taxes on income imposed on behalf of each Contracting State, 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 Convention shall apply are, in particular:
 - (a) in the case of Canada: the taxes imposed by the Government of Canada under the Income Tax Act; (hereinafter referred to as "Canadian tax");
 - (b) in the case of Mexico: the income tax under the Income Tax Law; and the assets tax under the Assets Tax Law; (hereinafter referred to as "Mexican tax").
4. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws.

II. DEFINITIONS

Article 3 GENERAL DEFINITIONS

1. In this Convention, unless the context otherwise requires:

(a) the term "Canada" used in a geographical sense, means the territory of Canada;

(b) the term "Mexico" means the United Mexican States;

(c) the terms "a Contracting State" and "the other Contracting State" mean, as the context requires, Canada or the United Mexican States;

(d) the term "person" includes an individual, an estate, a trust, a company, a partnership 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; in French, the term "société" also means a "corporation" within the meaning of Canadian law; (f) the term "competent authority" means:

(i) in the case of Canada, the Minister of National Revenue or the Minister's authorized representative;

(ii) in the case of Mexico, the Ministry of Finance and Public Credit;

(g) the term "tax" means Canadian tax or Mexican tax, as the context requires;

(h) 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; (i) the term "international traffic" with reference to a resident of a Contracting State means any voyage of a ship or aircraft to transport passengers or property (whether or not operated or used by that resident) except where the principal purpose of the voyage is to transport passengers or property between places within the other Contracting State.

2. As regards the application of the Convention by a Contracting State at any time, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has at that time under the law of that State for the purposes of the taxes to which the Convention applies.

Article 4 RESIDENT

1. For the purposes of this Convention, the term "resident of a Contracting State" means:

(a) any person who, under the laws of that State, is liable to tax therein by reason of the person's domicile, residence, place of management, place of incorporation or any other criterion of a similar nature;

(b) the Government of that State or a political subdivision or local authority thereof or any agency or instrumentality of any such government subdivision or authority.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then the individual's status shall be determined as follows:

(a) the individual shall be deemed to be a resident of the State in which the individual has a permanent home available; if the individual has a permanent home available in both States, the individual shall be deemed to be a resident of the State with which the individual's personal and economic relations are closer (centre of vital interests);

(b) if the State in which the individual's centre of vital interests cannot be determined, or if there is not a permanent home available to the individual in either State, the individual shall be deemed to be a resident of the State in which the individual has an habitual abode;

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

(d) in any other case, 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, the competent authorities of the Contracting States shall by mutual agreement endeavour to settle the question and to determine the mode of application of the Convention to such person. In the absence of such agreement such person shall be considered to be outside the scope of Articles 6 to 21 inclusive and Article 23.

Article 5 PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of a resident of a Contracting State 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 place of extraction of natural resources.

3. The term "permanent establishment" likewise encompasses 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 six months.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" in respect of a resident of a Contracting State shall be deemed not to include:

(a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the resident;

(b) the maintenance of a stock of goods or merchandise belonging to the resident solely for the purpose of storage, display or delivery;

(c) the maintenance of a stock of goods or merchandise belonging to the resident solely for the purpose of processing by another person;

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the resident;

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

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (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 7 applies - is acting on behalf of a resident of a Contracting State and has, and habitually exercises, in the other Contracting State an authority to conclude contracts in the name of the resident, that resident shall be deemed to have a permanent establishment in that other State in respect of any business activities which that person undertakes for the resident 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.

6. Notwithstanding the preceding provisions of this Article, an insurance company which is a resident of a Contracting State shall, except in regard to reinsurance, be deemed to have a permanent establishment in the other contracting State if it

collects premiums in the territory of that other State or insures risk situated therein through a representative who is employed or carries on business in that other State, other than an agent of an independent status to whom paragraph 7 applies.

7. A resident of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other 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. However, when the activities of such an agent are exercised wholly or almost wholly on behalf of that resident, that agent will not be considered an agent of an independent status within the meaning of this paragraph.

8. 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.

III. TAXATION OF INCOME

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. For the purposes of this Convention, the term "immovable property" shall have the meaning which it has for the purposes of the taxation law of the Contracting State in which the property in question is situated and shall include any option or similar right in respect thereof. 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 and to income from the alienation of such property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property used in carrying on a business or in the performance of independent personal services.

Article 7 BUSINESS PROFITS

1. The business profits of a resident of a Contracting State shall be taxable only in that State unless the resident carries on or has carried on business in the other Contracting State through a permanent establishment situated therein. If the resident carries on or has carried on business as aforesaid, the business profits of the resident may be taxed in the other State but only so much of them as is attributable to that permanent establishment. If a company which is a resident of a Contracting State has a permanent establishment in the other Contracting State and alienates property to persons in that other State that is identical or similar to property alienated through that permanent establishment, the profits from such alienations shall be attributed to that permanent establishment. However, the profits derived from such alienations shall not be attributed to that permanent establishment if the company establishes that such alienations have been carried out for a purpose other than that of obtaining a benefit from the provisions of this Convention.

2. Subject to the provisions of paragraph 3, where a resident of a Contracting State carries on or has carried 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 business profits which it might be expected to make if it were a distinct and separate person engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the resident and with all other persons.

3. In the determination of the business profits of a permanent establishment of a person, there shall be allowed those deductible expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses, whether incurred in the State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than as a reimbursement of actual expenses) by the permanent establishment to the head office or any other office of the person as royalties, fees or other similar payments in return for the use of patents or other rights, or by way of a commission, for specific services performed or for management, or, except in the case of a bank, as interest on moneys lent to the permanent establishment.

4. No business profits shall be attributed to a permanent establishment of a person by reason of the mere purchase by that permanent establishment of goods or merchandise for the person.
5. For the purposes of the preceding paragraphs, the business 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.
6. Where business profits include items of income which are dealt with separately in other Articles of the Convention, 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 a resident of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.
2. Notwithstanding the provisions of paragraph 1 and Article 7, profits derived from the operation of ships or aircraft used principally to transport passengers or goods exclusively between places in a Contracting State may be taxed in that State.
3. The provisions of paragraphs 1 and 2 shall also apply to profits referred to in those paragraphs derived by a resident of a Contracting State from its participation in a pool, a joint business or an international operating agency.
4. In this Article
 - (a) the term "profits" includes:
 - (i) profits, net profits, gross receipts and revenues derived directly from the operation of ships or aircraft in international traffic; and
 - (ii) interest on sums generated directly from the operation of ships or aircraft in international traffic provided that such interest is incidental to the operation;
 - (b) the term "operation of ships or aircraft" in international traffic by a person includes:
 - (i) the charter or rental of ships or aircraft;
 - (ii) the rental of containers and related equipment; and
 - (iii) the alienation of ships, aircraft, containers and related equipment by that person provided that such charter, rental or alienation is incidental to the operation by that person of ships or aircraft in international traffic but does not include the transportation by a person by any other means of transport or the provision of accommodation.

Article 9
ASSOCIATED PERSONS

1. Where

(a) a resident of a Contracting State participates directly or indirectly in the management, control or capital of a resident of the other Contracting State, or

(b) the same persons participate directly or indirectly in the management, control or capital of a resident of a Contracting State and a resident of the other Contracting State, and in either case conditions are made or imposed between the two persons in their commercial or financial relations which differ from those which would be made between independent persons, then any income or profits which would, but for those conditions, have accrued to one of the persons, but, by reason of those conditions, have not so accrued, may be included in the income or profits of that person and taxed accordingly.

2. Where a Contracting State includes in the income or profits of a resident of that State - and taxes accordingly - income or profits on which a resident of the other Contracting State has been charged to tax in that other State and the amount so included is income or profits which would have accrued to the first mentioned person if the conditions made between the two persons had been those which would have been made between independent persons, then that other State shall where it agrees with the inclusion make an appropriate adjustment to the amount of tax charged therein on that income or those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

3. A Contracting State shall not change the income or profits of a person in the circumstances referred to in paragraph 1 after the expiry of the time limits provided in its national laws and, in any case, after five years from the end of the year in which the income or profits which would be subject to such change would, but for the conditions referred to in paragraph 1, have accrued to that person.

4. The provisions of paragraphs 2 and 3 shall not apply in the case of fraud, wilful default or neglect.

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 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% of the gross amount of the dividends if the beneficial owner is a company which controls directly or indirectly at least 25% of the voting power in the company paying the dividends;

(b) 15% of the gross amount of the dividends in all other cases. The provisions of this paragraph shall not affect the taxation of the company on the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income 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.

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 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 permanent establishment or fixed base. In such 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 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 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 State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

6. Nothing in this Convention shall be construed as preventing a Contracting State from imposing on the earnings of a company attributable to a permanent establishment in that State a tax in addition to the tax which would be chargeable on the earnings of a company which is a national of that State, provided that any additional tax so imposed shall not exceed 10% of the amount of such earnings which have not been subjected to such additional tax in previous taxation years. For the purpose of this provision, the term "earnings" means the profits or income

attributable to a permanent establishment or immovable property in a Contracting State and gains that may be taxed in that State in accordance with the provisions of Article 13 after deducting therefrom all taxes, other than the additional tax referred to herein, imposed in that State on such profits, income or gains.

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 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 15% of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2:
 - (a) interest arising in a Contracting State may be taxed only in the other Contracting State where the beneficial owner is a resident of that other State and the person paying the interest or the recipient thereof is the Government of a Contracting State or a political subdivision or local authority thereof;
 - (b) interest arising in Mexico and paid to a resident of Canada who is the beneficial owner thereof shall be taxable only in Canada if it is paid in respect of a loan for a period of not less than three years made, guaranteed or insured, or a credit for such period extended, guaranteed or insured by the Export Development Corporation;
 - (c) interest arising in Canada and paid to a resident of Mexico who is the beneficial owner thereof shall be taxable only in Mexico if it is paid in respect of a loan for a period of not less than three years made, guaranteed or insured, or a credit for such period extended, guaranteed or insured by Banco Nacional de Comercio Exterior, S.N.C..
4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and, in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as income which is subjected to the same taxation treatment as income from money lent by the laws of the State in which the income arises. However, the term "interest" does not include income dealt with in Article 8 or Article 10.
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 performs in that other 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.

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

7. Where by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person:

(a) the amount of the interest, having regard to the debtclaim 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 Convention;

(b) the conditions (including amount) of the debt-claim differ from those that would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the interest thereon may be taxable according to paragraph 2 of Article 10.

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 recipient is the beneficial owner of the royalties the tax so charged shall not exceed 15% of the gross amount of the royalties.

3. Notwithstanding the provisions of paragraph 2, copyright royalties and other like payments in respect of the production or reproduction of any cultural, dramatic, musical or other artistic work (but not including royalties in respect of motion picture films and works on film or videotape or other means of reproduction for use

in connection with television) arising in a Contracting State and paid to a resident of the other Contracting State who is subject to tax there on shall be taxable only in that other State.

4. 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, patent, trade mark, design or model, plan, secret formula or process or other intangible property, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience, and includes payments of any kind in respect of motion picture films and works on film, videotape or other means of reproduction for use in connection with television. The term "royalties" also includes gains derived from the alienation of any such right or property which are contingent on the productivity or use thereof.

5. The provisions of paragraphs 1, 2 and 3 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 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.

6. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether that person 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 obligation 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 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 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 Convention.

Article 13
CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property 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 a resident 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 carried on by such resident) or of such a fixed base may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic by a resident of a Contracting State or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.
4. Gains derived by a resident of a Contracting State from the alienation of
 - (a) shares (other than shares quoted on an approved stock exchange in the other State) forming part of a substantial interest in the capital stock of a company which is a resident of that other Contracting State the value of which shares is derived principally from immovable property situated in that other State; or
 - (b) a substantial interest in a partnership, trust or estate the value of which is derived principally from immovable property situated in that other State, may be taxed in that other State. For the purposes of this paragraph, the term immovable property includes the shares of a company referred to in subparagraph (a) or an interest in a partnership, trust or estate referred to in subparagraph (b) but does not include any property, other than rental property, in which the business of the company, partnership, trust or estate is carried on.
5. Where a resident of one of the Contracting States alienates property in the course of a corporate amalgamation or division or of a corporate reorganization involving an exchange of shares and profit, gain or income with respect to such alienation is not recognized for the purpose of taxation in that State; if requested to do so by the person acquiring the property, the competent authority of the other Contracting State may agree, subject to terms and conditions satisfactory to such competent authority, to defer the recognition of the profit, gain or income with respect to such property for the purpose of income taxation in that other State until such time and in such manner as may be stipulated in the Agreement.

6. Except as provided in Article 12, gains from the alienation of any property, other than that referred to in paragraphs 1, 2, 3 and 4 shall be taxable only in the Contracting State of which the alienator is a resident.

7. The provisions of paragraph 6 shall not affect the right of a Contracting State to levy, according to its law, a tax on gains from the alienation of any property derived by an individual who is a resident of the other Contracting State and has been a resident of the first-mentioned State at any time during the six years immediately preceding the alienation of the property.

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 the resident has regularly available a fixed base in the other Contracting State for the purpose of performing such activities. If the resident has or had such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to the fixed base. For the purposes of this Convention a resident of a Contracting State shall be considered to have a fixed base in the other Contracting State throughout any twelve month period if the resident is present in that other State for more than 183 days in aggregate in that period.

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 and 19, 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 the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the calendar year concerned, and either (a) the remuneration earned in the other Contracting State

in the calendar year concerned does not exceed one thousand five hundred Canadian dollars (\$ 1,500) or its equivalent in Mexican pesos or such amount as may be specified and agreed in letters exchanged between the competent authorities of the Contracting States; or

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and such 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 in respect of an employment exercised aboard a ship or aircraft operated in international traffic by a resident of a Contracting State shall be taxable only in that State unless the remuneration is derived by a resident of the other Contracting State.

Article 16 DIRECTORS' FEES

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

2. Salaries, wages and other similar remuneration derived by a resident of a Contracting State in that resident's capacity as an official in a top-level managerial position of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17 ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 7, 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from that resident's personal activities as such exercised in the other Contracting State, may be taxed in that other State. Income derived by an entertainer or an athlete who is a resident of a Contracting State from that resident's personal activities relating to that resident's reputation as an entertainer or athlete 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 an athlete in that individual's capacity as such accrues not to the entertainer or athlete personally 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 paragraph 2 shall not apply if it is established that neither the entertainer or the athlete nor persons related thereto participate directly or indirectly in the profits of the person referred to in that paragraph.

4. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities performed in a Contracting State by a resident of the other Contracting State in the context of a visit in the first-mentioned State of a non-profit organization of the other State, provided the visit is substantially supported by public funds.

Article 18 PENSIONS AND ANNUITIES

1. Pensions and annuities arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. Pensions arising in a Contracting State and paid to a resident of the other Contracting State may also be taxed in the State in which they arise, and according to the law of that State. However, in the case of periodic pension payments, the tax so charged shall not exceed the lesser of

(a) 15% of the gross amount of the payment; and

(b) the rate determined by reference to the amount of tax that the recipient of the payment would otherwise be required to pay for the year on the total amount of the periodic pension payments received by that individual in the year, if that individual were a resident of the Contracting State in which the payment arises.

3. Annuities, other than pensions, arising in a Contracting State and paid to a resident of the other Contracting State may also be taxed in the State in which they arise, and according to the law of the State; but the tax so charged shall not exceed 15% of the portion thereof that is subject to tax in that State. For the purposes of this Convention, the term "annuities" means a stated sum paid periodically at stated times during life or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration (other than services rendered), but does not include a payment that is not a periodic payment or any annuity the cost of which was deductible for the purposes of taxation in the Contracting State in which it was acquired.

4. Notwithstanding anything in the Convention:

(a) war pensions and allowances (including pensions and allowances paid to war veterans or paid as a consequence of damages or injuries suffered as a consequence of a war) arising in a Contracting State and paid to a resident of the other Contracting State shall be exempt from tax in that other State to the extent that they would be exempt from tax if received by a resident of the first-mentioned State; and

(b) alimony and other similar payments arising in a Contracting State and paid to a resident of the other Contracting State who is subject to tax therein in respect thereof, shall be taxable only in that other State. However, where a deduction or a credit for alimony or a similar payment is not allowed for the purposes of taxation in the Contracting State in which such payment arises, such payment shall not be taxable in the other Contracting State.

Article 19 GOVERNMENT SERVICE

1. (a) Salaries, wages and similar 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 the State or subdivision or authority in any other State shall be taxable only in the first-mentioned State.

(b) However, such salaries, wages or similar 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. The provisions of paragraph 1 shall not apply to remuneration 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 Students Payments which a student, apprentice or business trainee 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 State solely for the purpose of that individual's education or training receives for the purposes of that individual's maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 21
OTHER INCOME

1. Subject to the provisions of paragraph 2, items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.
2. However, if such income is derived by a resident of a Contracting State from sources in the other Contracting State, such income may also be taxed in the State in which it arises, and according to the law of that State. However, in the case of income from an estate or trust, the tax so charged shall, provided that the income is taxable in the Contracting State of which the beneficial owner is a resident, not exceed 15% of the gross amount of the income.

IV. METHODS FOR PREVENTION OF DOUBLE TAXATION

Article 22
ELIMINATION OF DOUBLE TAXATION

1. In the case of Canada, double taxation shall be avoided as follows:
 - (a) Subject to the existing provisions of the law of Canada regarding the deduction from tax payable in Canada of tax paid in the territory outside Canada and to any subsequent modification of those provisions - which shall not affect the general principle hereof - and unless a greater deduction or relief is provided under the laws of Canada, tax payable in Mexico on profits, income or gains arising in Mexico shall be deducted from any Canadian tax payable in respect of such profits, income or gains.
 - (b) Subject to the existing provisions of the law of Canada regarding the determination of the exempt surplus of a foreign affiliate and to any subsequent modification of those provisions - which shall not affect the general principle hereof - for the purpose of computing Canadian tax, a company which is a resident of Canada shall be allowed to deduct in computing its taxable income any dividend received by it out of the exempt surplus of a foreign affiliate resident in Mexico.
2. In the case of Mexico, double taxation shall be avoided as follows:
 - (a) Residents of Mexico may credit against the Mexican tax on income arising in Canada the income tax paid in Canada in any amount not exceeding the tax payable in Mexico on such income; and
 - (b) Subject to the provision of Mexican law, companies which are residents of Mexico may also credit against Mexican tax on dividends paid by companies that are residents of Canada the income tax paid in Canada on the profits out of which the dividends are paid.

3. For the purpose of subparagraph (a) of paragraph 1, tax of 15% shall be deemed to have been paid on a dividend paid by a company which is a resident of Mexico, the earnings of which are primarily from businesses carried on in Mexico.

4. For the purposes of this Article, profits, income or gains of a resident of a Contracting State which are taxed in the other Contracting State in accordance with this Convention shall be deemed to arise from sources in that other State.

V. SPECIAL PROVISIONS

Article 23

NON-DISCRIMINATION

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

2. The taxation on a permanent establishment which a resident 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 residents of that other State carrying on the same activities.

3. Nothing in this Article shall 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.

4. Companies which are residents 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 companies which are residents of the first-mentioned State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of a third State, are or may be subjected.

5. In this Article, the term "taxation" means taxes which are the subject of this Convention.

Article 24
MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for that person in taxation not in accordance with the provisions of this Convention, that person may, irrespective of the remedies provided by the domestic law of those States, address to the competent authority of the Contracting State of which that person is a resident an application in writing stating the grounds for claiming the revision of such taxation. To be admissible, the said application must be submitted within two years from the first notification of the action which gives rise to taxation not in accordance with the Convention.
2. The competent authority referred to in paragraph 1 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 not in accordance with the Convention.
3. A Contracting State shall not, after the expiry of the time limits provided in its national laws and, in any case, after five years from the end of the taxable period in which the income concerning has accrued, increase the tax base of a resident of either of the Contracting States by including therein items of income which have also been charged to tax in the other Contracting State. This paragraph shall not apply in the case of fraud, wilful default or neglect.
4. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention and may communicate with each other directly for the purpose of applying the Convention.

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 Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. 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 State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement in respect of, or the determination of

appeals in relation to, the taxes imposed by that State. Such persons or authorities shall use the information only for tax purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. Nothing in paragraph 1 shall be construed so as to impose on a Contracting State the obligation:

(a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;

(b) to supply 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*).

3. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall endeavour to obtain the information to which the request relates in the same way as if its own taxation was involved notwithstanding the fact that that other State does not, at that time, need such information. If specifically requested by the competent authority of a Contracting State, the competent authority of the other Contracting State shall endeavour to provide information under this Article in the form requested, such as depositions of witnesses and copies of unedited original documents (including books, papers, statements, records, accounts or writings), to the same extent such depositions and document can be obtained under the laws and administrative practices of that other State with respect to its own taxes.

Article 26

DIPLOMATIC AGENTS AND CONSULAR OFFICERS

Nothing in this Convention 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 27

MISCELLANEOUS RULES

1. The provisions of this Convention shall not be construed to restrict in any manner any exemption, allowance, credit or other deduction accorded

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

(b) by any other agreement entered into by a Contracting State.

2. Nothing in the Convention shall be construed as preventing a Contracting State from imposing a tax on amounts included in the income of a resident of that State with respect to a partnership, trust, or controlled foreign affiliate, in which the resident has an interest.

3. The Convention shall not apply to any company, trust or partnership that is a resident of a Contracting State and is beneficially owned or controlled directly or indirectly by one or more persons who are not residents of that State, if the amount of the tax imposed on the income or capital of the company, trust or partnership by that State is substantially lower than the amount that would be imposed by the State if all of the shares of the capital stock of the company or all of the interests in the trust or partnership, as the case may be, were beneficially owned by one or more individuals who were residents of that State.

VI. FINAL PROVISIONS

Article 28 ENTRY INTO FORCE

1. This Convention shall enter into force on the date on which the Contracting States exchange notes through diplomatic channels notifying each other that the last of such things has been done as is necessary to make the Convention applicable in Canada and in Mexico, as the case may be, and thereupon the Convention shall have effect:

(a) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of January in the calendar year in which the Convention enters into force; and

(b) in respect of other tax for taxation years beginning on or after the first day of January in the calendar year in which the Convention enters into force.

2. The existing Agreement between Canada and the United Mexican States for the avoidance of double taxation of income derived from the operation of ships or aircraft in international traffic concluded by exchange of notes at Mexico City on January 29, 1974, shall terminate upon the entry into force of the Convention. However, the provisions of the said Agreement shall continue in effect until the provisions of the Convention, in accordance with the provisions of paragraph 1, shall have effect.

Article 29
TERMINATION

This Convention shall continue in effect indefinitely but either Contracting State may, on or before June 30 of any calendar year after the year in which it entered into force, give to the other Contracting State a notice of termination in writing through diplomatic channels; in such event, the Convention shall cease to have effect:

(a) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of January of the next following calendar year; and

(b) in respect of other tax for taxation years beginning on or after the first day of January of the next following calendar year. Done in duplicate at Ottawa, this 8th day of April 1991, in the English, French and Spanish languages, each version being equally authentic.

PROTOCOL

At the moment of signing the Convention this day concluded between the Government of Canada and the Government of the United Mexican States 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 provision which shall be an integral part of the Convention.

In the event that pursuant to an Agreement or Convention concluded with a country that is a member of the Organisation for Economic Co-operation and Development after the date of signature of this Convention, Mexico agrees to a rate of tax on interest or royalties that is lower than 15%, then such lower rate (but not in any event a rate below 10%) shall apply for the purpose of paragraph 2 of Article 11 with respect to interest or paragraph 2 of Article 12 with respect to royalties, as the case may be.

Done in duplicate at Ottawa, this 8th day of April 1991, in the English, French and Spanish languages, each version being equally authentic.