

1999 Income and Capital Tax Convention and Final Protocol

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CONVENTION BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE PEOPLE'S DEMOCRATIC REPUBLIC OF ALGERIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Government of Canada and the Government of the People's Democratic Republic of Algeria, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, have agreed as follows:

Article 1 Persons Covered

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 and on capital 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 and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, 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 Convention shall apply are, in particular:
 - (a) in the case of Canada:
the taxes on income and on capital imposed by the Government of Canada (hereinafter referred to as "Canadian tax");
 - (b) in the case of Algeria:
 - (i) the tax on total income;
 - (ii) the tax on profits of companies;
 - (iii) the tax on professional activities;
 - (iv) the lump-sum tax;
 - (v) the tax on capital;
 - (vi) the royalty and the tax on the net profits derived from the prospecting, research, exploitation and transportation by pipeline of hydrocarbons;
(hereinafter referred to as "Algerian 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.

Article 3 General Definitions

1. For the purposes of this Convention, unless the context otherwise requires:
 - (a) the terms "a Contracting State" and "the other Contracting State" mean, as the context requires, Canada or Algeria;
 - (b) the term "Canada", used in a geographical sense, means the territory of Canada, including
 - (i) any area beyond the territorial sea of Canada which, in accordance with international law and the laws of Canada, is an area within which Canada may exercise rights with respect to the seabed and subsoil and their natural resources, and
 - (ii) the sea and airspace above every area referred to in clause (i) in respect of any activity carried on in connection with the exploration for or the exploitation of the natural resources referred to therein;
 - (c) the term "Algeria" means the People's Democratic Republic of Algeria and, used in a geographical sense, the term means the territory of the People's Democratic Republic of Algeria including the territorial sea and any area beyond the territorial sea, the areas over which the People's Democratic Republic of Algeria, in accordance with international law and the laws of Algeria, exercises its

jurisdiction or sovereign rights with respect to the exploration and exploitation of natural resources of the seabed and subsoil and the overlying water;

(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 of a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except where the ship or aircraft is operated solely between places in the other Contracting State;

(h) 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 Algeria, the Minister in charge of Finance or the Minister's authorized representative;

(i) the term "tax" means Canadian tax or Algerian tax, as the context requires;

(j) the term "national" means:

(i) any individual possessing the nationality of a Contracting State;

(ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State.

2. As regards the application of the Convention by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has 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 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 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 the individual's status shall be determined as follows:

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

(b) if the Contracting 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 Contracting State, the individual shall be deemed to be a resident only of the Contracting State in which the individual has an habitual abode;

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

(d) if the Contracting State of which the individual is a resident can not be determined under the preceding criteria, 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, the person shall be deemed not to be a resident of either Contracting States for the purpose of obtaining benefits provided under the Convention.

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 an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

(f) a sales outlet;

(g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
(h) a building site or construction or installation project or supervisory activities in connection therewith but only if the site, project or activity continues for a period of more than three months;
(i) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel hired by the enterprise for that purpose, but only if activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than three months within any twelve month period.

3. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

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

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

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

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

(e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in 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.

4. Notwithstanding the provisions of paragraphs 1 and 2, where a person (other than an agent of an independent status to whom paragraph 5 applies) is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise unless the activities of such person are limited to those mentioned in paragraph 3 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.

5. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, or merely because it maintains in that State a stock of goods or merchandise with an agent of an independent status from which deliveries are made by that agent, provided that such persons are acting in the ordinary course of their business.

6. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6 Income From Immovable Property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture 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 State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on or has carried on business as aforesaid, the profits of the

enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are effectively 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 towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or to any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

Likewise, no account shall be taken, in the determination of the profits of the permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

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

5. 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 contained in this Article.

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 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 from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. Notwithstanding the provisions of paragraph 1 and of Article 7, profits from the operation of a ship or aircraft used principally to transport passengers or property between places in a Contracting State may be taxed in that State.

3. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

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

5. For the purposes of this Article, the term "operation of ships or aircraft" in international traffic by a person, includes:

(a) the charter or rental of ships or aircraft,

(b) the rental of containers and related equipment, and

(c) the alienation of ships, aircraft, containers and related equipment

by that person if such charter, rental or alienation is incidental to the operation by that person of ships or aircraft in international traffic.

Article 9 Associated Enterprises

1. Where

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

2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits that would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those that would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of tax charged therein on 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 profits of an enterprise 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 profits that would be subject to such change would have accrued to that enterprise.

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 that 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 15 per cent of the gross amount of the dividends.

The provisions of 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, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from shares or rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

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 that 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.

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 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be exempt from tax in that State if:

- (a) the payer of the interest is the Government of that Contracting State or a political subdivision or local authority thereof; or
- (b) the interest is paid to the Government of the other Contracting State or a political subdivision or local authority or to any institution or organization (including a financial institution) wholly owned by that Contracting State or subdivision or authority thereof; or
- (c) the interest is paid to other institutions or organizations (including financial institutions) in respect of a loan made within the framework of an agreement concluded between the Governments of the Contracting States.
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 10.
5. The provisions of 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 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 that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether the payer 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, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount that 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 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 per cent of the gross amount of the royalties.
3. Notwithstanding the provisions of paragraph 2, royalties for the use of, or the right to use, computer software or any patent (but not including any such information provided in connection with a rental or franchise agreement), arising in a Contracting State and paid to a resident of the other Contracting State who is the beneficial owner of the royalties 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 of literary, artistic or scientific work including motion picture films and works on film, videotape or other means of reproduction for use in connection with television or radio broadcasting, 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.
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 that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether the payer 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 that 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 referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment that 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 a fixed base, may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic or from movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14 Independent Personal Services

1. Income derived by an individual who is 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 except that:
 - (a) if the individual has or had a fixed base regularly available in the other Contracting State; in such 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 the individual's stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; in such case, only so much of the income as is attributable to the activities exercised in the other Contracting State may be taxed in that other State.
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:
 - (a) 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
 - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
 - (c) the remuneration is not borne by a permanent establishment or a fixed base that the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16 Directors' Fees

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 of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17 Artistes and Sportspersons

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 artiste, or a musician, or as a sportsperson, from that resident's personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in that individual's capacity as such accrues not to the entertainer or sportsperson 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 sportsperson are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a Contracting State where such activities are wholly or substantially supported by public funds of the other Contracting State or a political subdivision or local authority thereof. In such case, the income derived from such activities shall be taxable only in that other Contracting State.

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 but, in the case of periodic pension payments, the tax so charged shall not exceed the lesser of:

(a) 15 per cent of the gross amount of such periodic pension payments paid to the recipient in the calendar year concerned in excess of twelve thousand Canadian dollars or its equivalent in Algerian dinars; 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 the individual in the year, if the individual were resident in the Contracting State in which the payment arises.

The competent authorities of the Contracting States may, if necessary, agree to modify the above-mentioned amount as a result of monetary or economic developments. For the purposes of this paragraph, the term "pensions" does not include payments under the social security legislation in a Contracting State.

3. Annuities 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, but the tax so charged shall not exceed 15 per cent of the portion thereof that is subject to tax in that State. However, this limitation does not apply to lump-sum payments arising on the surrender, cancellation, redemption, sale or other alienation of an annuity, or to payments of any kind under an annuity contract the cost of which was deductible, in whole or in part, in computing the income of any person who acquired the contract.

4. Notwithstanding anything in this 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.

Article 19 Government Service

1.

(a) Salaries, wages and other 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 that State or subdivision or authority shall be taxable only in that State.

(b) However, such salaries, wages and other 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 Articles 15 and 16 shall apply to salaries, wages and other similar 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

1. 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 purpose of that individual's maintenance, education or training shall not be taxed in that State, if such payments arise from sources outside that State.

2. As regards bursaries and remuneration from employment to which paragraph 1 does not apply, a student or business trainee within the meaning of paragraph 1 may, for the period of the individual's education or training, claim exemptions, allowances or deductions from tax that are available to residents of the State the individual is visiting.

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. The provisions of paragraph 1 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 State independent personal services from a fixed base situated therein, and the right or property in respect 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 the case may be, shall apply.

3. Notwithstanding the provisions of paragraph 1, items of income of a resident of a Contracting State which are not dealt with in the foregoing Articles of the Convention and which arise in the other Contracting State may also be taxed in that other State.

Article 22 Capital

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State may be taxed in that other State.

2. Capital represented by movable property forming part of the business property of a permanent establishment that an enterprise of a Contracting State has in the other Contracting State, or by 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, may be taxed in that other State.

3. Capital represented by ships and aircraft operated in international traffic and by movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the State in which the place of effective management of the enterprise is situated.

4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 23 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 a 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 Algeria on profits, income or gains arising in Algeria shall be deducted from any Canadian tax payable in respect of such profits, income or gains;

(b) where, in accordance with any provision of the Convention, income derived or capital owned by a resident of Canada is exempt from tax in Canada, Canada may nevertheless, in calculating the amount of tax on other income or capital, take into account the exempted income or capital.

2. In the case of Algeria, double taxation shall be avoided as follows:

(a) where a resident of Algeria derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Canada, Algeria shall deduct:

(i) from the tax on the income of that resident, an amount equal to the income tax paid in Canada;

(ii) from the tax on capital of that resident, an amount equal to the capital tax paid in Canada;

(b) such deduction in either case shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in Canada.

3. For the purposes of subparagraph (a) of paragraph 1, tax payable in Algeria by a company that is a resident of Canada in respect of profits attributable to a trade or business carried on by it in Algeria shall include any amount which would have been payable thereon as Algerian tax for any year but for an exemption from, or reduction of, tax granted for that year or any part thereof under the provisions of Decree Law no 93-12 of October 5, 1993, relating to the promotion of investment so far as they were in force on, and have not been modified since, the date of signature of this Convention, or have been modified only in minor respects so as not to affect their general character. The provisions of this paragraph shall apply for the first five years for which the Convention is effective, but the competent authorities of the Contracting States may consult with each other to determine whether this period shall be extended.

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

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 therewith that is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected.

2. The taxation on a permanent establishment that an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

3. 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 that it grants to its own residents.

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 State to any taxation or any requirement connected therewith that is other or more burdensome than the taxation and connected requirements to which other similar enterprises that 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.

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 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 resulting in taxation not in accordance with the provisions of the Convention.

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 not in accordance with the Convention.

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 the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

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 an 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 is necessary for carrying out the provisions of this Convention or of the domestic laws in 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 or prosecution in respect of, or the determination of appeals in relation to, taxes. 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 the administrative practice of that or of the other Contracting State;

(b) to supply information that is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State; or

(c) to supply information that 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 were involved, even though the other State does not, at that time, need such information.

Article 27 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 28 Entry Into Force

1. This Convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible.

2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect:

(a) in Canada

(i) 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 following that in which the Convention enters into force; and

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

(b) in Algeria:

(i) to taxes withheld at the source on income credited or payable on or after the first day of January in the calendar year following that in which the Convention enters into force; and

(ii) to other taxes for taxable periods beginning on or after the first day of January in the calendar in which the Convention enters into force.

Article 29 Termination

This Convention shall continue in effect as long as it has not been terminated by a Contracting State. Either Contracting State may, through diplomatic channels, terminate the Convention by giving a six-month notice before the end of any calendar year beginning after the fifth year from the date of entry into force of the Convention.

In such event, the Convention shall cease to have effect

(a) in Canada:

(i) 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 calendar year next following that of the termination; and

(ii) in respect of other Canadian tax for taxation years, beginning on or after the first day of January of the calendar year next following that of the termination;

(b) in Algeria:

(i) to taxes withheld at the source on income credited or payable at the latest on December 31 of the year of the termination; and

(ii) to other taxes for taxable periods ending on or before December 31 of the same year.

In witness whereof the undersigned, duly authorized to that effect, have signed this Convention.

Done in duplicate at Algiers, this 28th day of February 1999, in the English, French and Arabic languages, each version being equally authentic.

FOR THE GOVERNMENT OF CANADA:

Franco D. Pillarella

FOR THE GOVERNMENT OF THE PEOPLE'S DEMOCRATIC REPUBLIC OF ALGERIA:

Lahcene Moussaoui

PROTOCOL

At the moment of signing the Convention between the Government of Canada and the Government of the People's Democratic Republic of Algeria for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital the undersigned, duly authorized, have agreed on the following provisions which shall be an integral part of the Convention.

1. With reference to paragraph 1 of Article 2

It is understood that, in the case of Algeria, the Convention shall also apply to taxes on income and on capital imposed on behalf of its political subdivisions or local authorities.

2. With respect to paragraph 1 (d) of Article 3

It is understood that the term "person" also includes, in the case of Canada, a trust and an estate.

3. With reference to paragraph 1 of Article 4

It is understood that the term "resident of a Contracting State" also includes any agency or instrumentality of a Contracting State, its political subdivisions or its local authorities.

4. With reference to paragraph 1 of Article 6

It is understood that the provisions of paragraph 1 of Article 6 shall also apply to income from the alienation of property referred to therein.

5. Notwithstanding the provisions of paragraph 2 of Article 11, interest arising in Algeria and paid to a resident of Canada shall be taxable only in Canada if it is paid in respect of a loan guaranteed or insured, or a credit guaranteed or insured by the Export Development Corporation.

6. Notwithstanding the provisions of paragraph 4 of Article 13, gains derived by a resident of Algeria from the alienation of:

(a) shares (other than shares listed on an approved stock exchange in Canada) of the capital stock of a company the value of which shares is derived principally from immovable property situated in Canada; or

(b) an interest in a partnership, trust or estate, the value of which is derived principally from immovable property situated in Canada, may be taxed in Canada. 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).

7. Where an individual who ceases to be a resident of a Contracting State, and immediately thereafter becomes a resident of the other Contracting State, is treated for the purposes of taxation in the first-mentioned State as having alienated a property and is taxed in that State by reason thereof, the individual may elect to be treated for the purposes of taxation in the other State as if the individual had, immediately before becoming a resident of that State, sold and repurchased the property for an amount equal to its fair market value at that time.

8. Notwithstanding any provision of the Convention,

(a) a company that is a resident of Algeria and that has a permanent establishment in Canada shall, in accordance with the provisions of Canadian law, remain subject to the additional tax on companies other than Canadian companies, but the rate of such tax shall not exceed 15 per cent;

(b) a company that is a resident of Canada and that has a permanent establishment in Algeria shall remain subject to the withholding tax in accordance with the provisions of Algerian law, but the rate of such tax shall not exceed 15 per cent.

9. The provisions of the 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.

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

11. 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 that 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.

12. The Contracting States agree that any dispute between them as to whether a measure falls within the scope of this Convention may be brought before the Council for Trade in Services, as provided by paragraph 3 of Article XXII (Consultation) of the General Agreement on Trade in Services, only with the consent of both Contracting States. Any doubt as to the interpretation of this paragraph shall be

resolved under paragraph 3 of Article 25 or, failing agreement, pursuant to any other procedure agreed to by both Contracting States.

In witness whereof the undersigned, duly authorized to that effect, have signed this Protocol. Done in duplicate at Algiers, this 28th day of February 1999, in the English, French and Arabic languages, each version being equally authentic.

FOR THE GOVERNMENT OF CANADA:

Franco D. Pillarella

FOR THE GOVERNMENT OF THE PEOPLE'S DEMOCRATIC REPUBLIC OF ALGERIA:

Lahcene Moussaoui