

Agreement Between Canada and the United Republic of Tanzania for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital

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The Government of Canada and the Government of the United Republic of Tanzania desiring to conclude an Agreement 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:

I. Scope of the Agreement

Article 1

Personal Scope

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

Article 2

Taxes Covered

1. This Agreement shall apply to taxes on income 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, as well as taxes on capital appreciation.
3. The existing taxes to which the Agreement 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 Tanzania:

- i. the income tax and any other tax deemed to be tax on income;
- ii. the capital gains tax; and
- iii. the excess profits tax;

(hereinafter referred to as "Tanzanian tax").

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

II. Definitions

Article 3

General Definitions

1. For the purposes of this Agreement, unless the context otherwise requires:
 - a. the term "Canada" used in a geographical sense, means the territory of Canada, including:
 - i. any area beyond the territorial seas 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;
 - ii. the seas and airspace above every area referred to in subparagraph (i) in respect of any activity carried on in connection with the exploration for or the exploitation of the natural resources referred to therein;
 - b. the term "Tanzania" means the territory of the United Republic of Tanzania, including any area outside the territorial waters of Tanzania which has been or may be designated or proclaimed under the laws of Tanzania as an area over which Tanzania may exercise its sovereign rights of jurisdiction in accordance with international law;
 - c. the terms "a Contracting State" and "the other Contracting State" mean, as the context requires, Canada or Tanzania;
 - 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 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 "competent authority" means:

- i. in the case of Canada, the Minister of National Revenue or his authorized representative,
 - ii. in the case of Tanzania, the Minister for the time being responsible for Finance or his authorized representative;
 - h. the term "tax" means Canadian tax or Tanzanian tax, as the context requires;
 - i. the term "international traffic" means any transport by a ship or aircraft operated by a resident of a Contracting State, except where the ship or aircraft is operated solely between places in the other Contracting State;
 - j. 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.
- 2. As regards the application of the provisions of the Agreement 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 concerning the taxes to which the Agreement applies.

Article 4

Resident

- 1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature.
- 2. Where by reason of the provisions of paragraph 1, an individual is a resident of both Contracting States, then his status shall be determined as follows:
 - a. he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
 - b. if the State in which he has his centre of vital interests cannot be determined, or if he has no permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
 - c. if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;

- d. if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a company is a resident of both Contracting States, then its status shall be determined as follows:
 - a. it shall be deemed to be a resident of the State of which it is a national;
 - b. if it is a national of neither of the States, it shall be deemed to be a resident of the State in which its place of effective management is situated.
4. Where by reason of the provisions of paragraph 1 a person other than an individual or a company 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 Agreement to such person.

Article 5

Permanent Establishment

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise 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 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. 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 six months or more;
 - b. the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or connected project) within the country for a period or periods aggregating to six or more months within any twelve month period.
4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:
 - a. the use of facilities solely for the purpose of storage, display or delivery 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, display or delivery;
 - 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.
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 in a Contracting State on behalf of an enterprise of the other Contracting State that enterprise shall be deemed to have a permanent establishment in the first-mentioned State in respect of any activities which that person undertakes for the enterprise, if such person has and habitually exercises in the first-mentioned State an authority to conclude contracts in the name of the enterprise, unless the activities of such a 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 enterprise of a Contracting State shall, except in regard to re-insurance, 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 risks situated therein, through a person other than an agent of an independent status to whom paragraph 7 applies.
7. An enterprise 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 devoted wholly or almost wholly on behalf of that enterprise, he 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 Agreement, the term "immovable property" shall have the meaning which it has under the laws 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 of an enterprise or 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:
 - a. that permanent establishment; or
 - b. business activities carried on in that other State, of the same or similar kind as those effected through that permanent establishment, unless they are unrelated to the activities of 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 and with all other persons.
3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purpose of the business of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. Nothing in this paragraph shall require a Contracting State to allow the deduction of any expenditure which, by reason of its nature, is not generally allowed as a deduction under the taxation laws of that State.
4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such 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.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, 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 an enterprise of a Contracting State from the operation of aircraft in international traffic shall be taxable only in that State.
2. Profits derived by an enterprise of a Contracting State from the operation of ships in international traffic may be taxed in both Contracting States according to the law of each Contracting State. Provided that where such an enterprise

derives profits from such operation in the other Contracting State, for the purposes of taxation in that other State:

- a. such profits shall be deemed to be an amount not exceeding five percent of the full amount received by the enterprise on account of the carriage of passengers or freight embarked in that other State;
 - b. the tax chargeable in that other State shall not exceed fifty percent of the profits as calculated under the provisions of subparagraph (a).
3. Notwithstanding the provisions of paragraphs 1 and 2 and of 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.
 4. The provisions of paragraphs 1, 2 and 3 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.
 5. In this Article,
 - a. the term "profit" 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 an enterprise 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 enterprise provided that such charter, rental or alienation is incidental to the operation by that enterprise 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 which differ from those which would be made between independent enterprises, then any income which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the income of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the income of an enterprise of that State - and taxes accordingly - income on which an enterprise of the other Contracting State has been charged to tax in that other State and the income so included is income which would have accrued to the enterprise of the first mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of tax charged therein on that income. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.
3. A Contracting State shall not change the income 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 income which would be subject to such change would, but for the conditions referred to in paragraph 1, 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 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. 20 percent of the gross amount of the dividends if the beneficial owner is a company which controls directly or indirectly at least 15 percent of the voting power in the company paying the dividends;
 - b. 25 percent 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, 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 paragraph 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 15, 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 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. Notwithstanding any provision of this Agreement:
 - a. a company which is a resident of Tanzania and which 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 corporations, but the rate of such tax shall not exceed 20 percent;
 - b. a company which is a resident of Canada and which has a permanent establishment in Tanzania shall remain subject to an additional rate of tax in accordance with the provisions of Tanzanian law, but such additional rate shall not exceed 12 percent.

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 percent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2,
 - a. interest arising in a Contracting State and paid in respect of a bond, debenture or other similar obligation of the government of that Contracting State or of a political subdivision or local authority thereof shall, provided that the interest is beneficially owned by a resident of the other Contracting State, be taxable only in that other State;
 - b. interest arising in Tanzania and paid to a resident of Canada shall be taxable only in Canada if it is paid in respect of a loan made, guaranteed or insured, or a credit extended, guaranteed or insured by the Export Development Corporation, as long as it remains wholly-owned by the Government of Canada;
 - c. interest arising in Canada and paid to a resident of Tanzania shall be taxable only in Tanzania if it is paid in respect of a loan made, guaranteed or insured, or a credit extended, guaranteed or insured by any institution wholly-owned by the Government of Tanzania; and
 - d. interest arising in a Contracting State and paid to a resident of the other Contracting State who was constituted and is operated exclusively to administer or provide benefits under one or more pension, retirement or other employee benefits plans shall not be taxable in the first-mentioned State provided that
 - i. the resident is the beneficial owner of the interest and is generally exempt from tax in the other State, and
 - ii. the interest is not derived from carrying on a trade or a business or from a related person.
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. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article. However, the term "interest" does not include income dealt with in Article 8 or Article 10.
5. The provisions of paragraph 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:

- a. such permanent establishment or fixed base, or with
- b. business activities carried on in that other State of the same or similar kind as those effected through that permanent establishment.

In such case the provisions of Article 7 or Article 15, 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 he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the 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 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 payment shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 12

Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other 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 20 percent of the gross amount of the royalties.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright, 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, (but does not include any amount paid as consideration for the right to exploit a mine,

oil well or quarry or of any other place of extraction of natural resources), 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 radio or television and gains arising in Tanzania derived from the sale or exchange of any right or property giving rise to such royalties.

4. The provisions of paragraph 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right of property in respect of which the royalties are paid is effectively connected with:
 - a. such permanent establishment or fixed base, or with
 - b. business activities carried on in that other State, of the same or similar kind as those effected through that permanent establishment.

In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.

5. 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, a person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the 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.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 13

Capital Gains

1. 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 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 by an enterprise 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 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, established under the law in the other State, 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. Gains from the alienation of shares of a company which is a resident of Tanzania, other than shares to which paragraph 4 applies, may be taxed in Tanzania provided that the person alienating the shares owns less than 25 percent of the capital stock of the company immediately before the alienation.
6. Where a resident of one of the Contracting States alienates property in the course of a corporate organization, reorganization, amalgamation, division or similar transaction 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 who acquires the property, the competent authority of the other 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 taxation in

that other State until such time and in such manner as may be stipulated in the agreement.

7. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2, 3, 4 and 5 shall be taxable only in the Contracting State of which the alienator is a resident.
8. The provisions of paragraph 7 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

Management and Professional Fees

1. Management or professional fees 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 management or professional fees may also be taxed in the Contracting State in which they arise and according to the laws of that State, but the tax so charged shall not exceed 20 percent of the gross amount of the fees.
3. The term "management or professional fees" as used in this Article means payments of any kind to any person, other than to an employee of the person making the payments, in consideration for any service of a managerial, technical, professional or consultancy nature.
4. The provisions of paragraph 2 shall not apply if the recipient of the management or professional fees, being a resident of a Contracting State, carries on business in the other Contracting State in which the fees arise, through a permanent establishment situated therein, or performs in that other State professional services from a fixed base situated therein, and the fees are effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 15, as the case may be, shall apply.
5. Management or professional fees 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 fees, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the obligation to pay the fees was incurred, and such fees are borne by such permanent establishment, then such fees shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

Article 15

Independent Personal Services

1. Subject to the provisions of Article 14, 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:
 - a. he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities, in that case only so much of the income as is attributable to that fixed base may be taxed in that other State; or
 - b. his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in the fiscal year concerned, in that case only so much of the income as is derived from his activities performed in that other 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 16

Dependent Personal Services

1. Subject to the provisions of Articles 17, 19 and 20, 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 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 an enterprise of a Contracting State, may be taxed in that State.

Article 17

Directors' Fees

1. Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or 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 his capacity as 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 18

Artistes and Athletes

1. Notwithstanding the provisions of Articles 7, 15 and 16, 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 his 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 an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 15 and 16, 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 nor 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 who is a non-profit organization or an entertainer or athlete, provided the visit to the first-mentioned Contracting State is substantially supported by public funds and the activities are not performed for the purpose of profit.

Article 19

Pensions, Annuities and Social Security Payments

1. Subject to the provisions of paragraph 2 of Article 20, pensions, similar payments 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

- a. in the case of pensions arising in Canada, the lesser of
 - i. 15 percent of the gross amount of the payment, and
 - ii. 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 him in the year; if he were a resident of Canada;
 - b. in the case of pensions arising in Tanzania, 15 percent of the gross amount of the pensions.
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 percent of the portion thereof that is subject to tax in that State. However, this limitation does not apply to lump-sum payments arising in Canada 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 Agreement:
- 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 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;
 - 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; and
 - c. pensions and other payments made under a public scheme which is part of the social security system of a Contracting State or a political subdivision or a local authority thereof, shall be taxable only in that State.

Article 20

Remuneration and Pension in Respect of 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 that State or

- subdivision or authority shall be taxable only in that 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 other State and the individual is a resident of that other State who:
 - i. is a national of that other State; or
 - ii. did not become a resident of that other State solely for the purpose of rendering the services.
- 2.
- a. Notwithstanding the provisions of Article 19, any pension paid by, or out of funds created by Tanzania or a political subdivision or a local authority thereof to an individual in respect of services rendered to Tanzania or subdivision or authority thereof shall be taxable only in Tanzania.
 - b. However, such pension may also be taxed in Canada if the individual is a resident of, and a national of Canada.
3. The provisions of paragraphs 1 and 2 shall not apply to remuneration and pensions 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 21

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 his education or training receives for the purposes of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 22

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 Agreement shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply to income other than income from immovable property 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 15, as the case may be, shall apply.

3. Notwithstanding paragraphs 1 and 2 items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement and arising in the other Contracting State may also be taxed in that other State, and according to the law of that State.

IV. Taxation of Capital

Article 23

Capital

1. Capital represented by immovable property 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 which 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 by an enterprise of a Contracting State and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in that State.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

V. Methods for the Elimination of Double Taxation

Article 24

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 Tanzania on profits, income or gains arising in Tanzania 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 which is a resident of Tanzania.

2. In the case of Tanzania, double taxation shall be avoided as follows:
 - a. Subject to the provisions of the law of Tanzania, regarding the allowance of a credit to a Tanzanian resident against Tanzanian tax of tax payable in a territory outside Tanzania, Canadian tax payable under the laws of Canada in accordance with this Agreement, whether directly or by deduction, in respect of income from sources within Canada shall be allowed as a credit against any Tanzanian tax payable in respect of that income. The credit shall not however, exceed that Tanzanian tax, computed before allowing any such credit which is attributable to the income derived from Canada.
3. Where, in accordance with the provisions of this Agreement, income derived or capital owned by a resident of Tanzania is exempt from tax in Tanzania, Tanzania may nevertheless, in calculating the amount of tax on the remaining income or capital of such a resident, take into account the exempted income or capital.
4. For the purposes of paragraph 1(a), tax payable in Tanzania by a resident of Canada,
 - a. in respect of profits attributable to a trade or business carried on by it in Tanzania;

shall be deemed to include any amount which would have been payable as Tanzanian tax for any year but for an exemption from, or reduction of, tax granted for that year or any part thereof under:

- b. paragraphs 24, 25 and 26 of the second schedule to the Income Tax Act No. 33 of 1973; so far as they were in force on, and have not been modified since, the date of signature of this Agreement, or have been modified only in minor respects so as not to affect their general character; and except to the extent that any of the said provisions has the effect of exempting or relieving a source of income for a period in excess of ten years; or
- c. any other provisions which may subsequently be made granting an exemption or reduction of tax which is agreed by the competent authorities of the Contracting States to be of a substantially similar character, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general character.

5. 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 Agreement shall be deemed to arise from sources in that other State.

VI. Special Provisions

Article 25

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 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 which it grants 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, which is other or more burdensome than the taxation or connected requirements to which other similar enterprises 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 Agreement.

Article 26

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, address to the competent authority of the Contracting State of which he 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 Agreement.

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 Agreement.
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 concerned 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 Agreement.
5. The competent authorities of the Contracting States may consult together for the elimination of double taxation in cases not provided for in the Agreement and may communicate with each other directly for the purpose of applying the Agreement.
6. The competent authorities of the Contracting States, through consultations, may develop appropriate bilateral procedures, conditions, methods, and techniques for the implementation of the mutual agreement procedure provided for in this Article. In addition, a competent authority may devise appropriate unilateral procedures, conditions, methods and techniques to facilitate the above mentioned bilateral actions and the implementation of the mutual agreement procedure.

Article 27

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 Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement insofar as the taxation there under is not contrary to the Agreement, in particular for the prevention of fraud or evasion of such taxes. 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. However, if the information is originally regarded as secret in the transmitting State it 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 covered by the Agreement.