

AGREEMENT OF 8TH OCTOBER, 2003

Canada

CONVENTION BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF IRELAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS

The Government of Canada and the Government of Ireland, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains, have agreed as follows:

I. Scope of the Convention

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. The existing taxes to which this Convention shall apply are:

- (a) in the case of Canada, the income taxes imposed by the Government of Canada under the Income Tax Act, (hereinafter referred to as “Canadian tax”);
- (b) in the case of Ireland:
 - (i) the income tax;
 - (ii) the corporation tax; and
 - (iii) the capital gains tax, (hereinafter referred to as “Irish tax”).

2. The Convention shall apply also to any identical or substantially similar taxes which are imposed by a Contracting State 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 substantial changes which have been made in their respective taxation laws.

II. Definitions

Article 3

General Definitions

1. For the purposes of this Convention, 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 sea of Canada which, in accordance with international law and the laws of Canada, is an area in respect of which

- (ii) in the case of Ireland, the Irish Stock Exchange; and
- (iii) any other stock exchange agreed to in letters exchanged between the competent authorities of the Contracting States.

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

Article 4 Resident

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of that person's domicile, residence, place of management, place of incorporation or any other criterion of a similar nature and also includes that State or a political subdivision or local authority thereof or any agency or instrumentality of any such State, subdivision or authority. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

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

- (a) the individual shall be deemed to be a resident only of the Contracting State in which a permanent home is available to the individual; if a permanent home is available to the individual 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 centre of vital interests of the individual is situated cannot be determined, or if a permanent home is not 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 individual is a national of both Contracting 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 person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavour by mutual agreement to settle the question of which Contracting State such person shall be considered as a resident only of for the purposes of the Convention, having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of such agreement, such person shall not be entitled to claim any relief or exemption from tax provided by this Convention except to the extent and in such manner as may be agreed upon by the competent authorities of the Contracting States.

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; and
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.

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 purposes 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; and
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e) of this paragraph 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 6 applies – is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts on behalf 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 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. 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.

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

III. Taxation of Income

Article 6

Income From Immovable Property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.
2. For the purposes of this Convention, the term “immovable property” shall have the meaning which it has 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 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 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 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 determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes 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.
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 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.
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 of this Article, 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 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 of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.
2. Notwithstanding the provisions of Article 7, profits derived by an enterprise of a Contracting State from a voyage of a ship or aircraft where the principal purpose of the voyage is to transport passengers or property between places in the other Contracting State may be taxed in that other State.
3. In this Article, profits derived by an enterprise of one of the Contracting States from the operation of ships or aircraft in international traffic include:
 - (a) gross receipts and revenues derived directly from the operation of ships or aircraft in international traffic;
 - (b) interest on sums generated directly from the operation of ships or aircraft in international traffic provided that such interest is incidental to the operation;
 - (c) profits from the rental of ships or aircraft operated in international traffic; and
 - (d) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used in international traffic.
4. The provisions of paragraphs 1 and 2 shall also apply to profits from participation in a pool, a joint business or an international operating agency.

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 profits 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 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 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 the 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 a person in the circumstances referred to in paragraph 1 after the expiry of the time limits provided in its national laws and, in any case, after six years from the end of the taxable period in which the profits which would be subject to such change would, but for the conditions referred to in paragraph 1, have accrued to that person.

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

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 Contracting 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 beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:

- (a) except in the case of dividends paid by a non-resident-owned investment corporation that is a resident of Canada, 5 per cent of the gross amount of the dividends if the beneficial owner is a company which controls directly or indirectly 10 per cent or more of the voting power in the company paying the dividends;
- (b) 15 per cent of the gross amount of the dividends in all other cases.

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 or other rights, not being debt-claims, participating in profits, as well as any income or distribution assimilated to income from shares under the taxation laws of the Contracting State of which the company paying the dividends or income or 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 the other Contracting State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State, or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

6. Nothing in this Convention shall be construed as preventing a Contracting State from imposing on the earnings of a company attributable to a permanent establishment in that State, a tax in addition to the tax which would be chargeable on the earnings of a company which is a national of that State, provided that any additional tax so imposed shall not exceed 5 per cent of the amount of such earnings which have not been subjected to such additional tax in previous taxation years. For the purpose of this provision, the term “earnings” means the profits attributable to a permanent establishment in a Contracting State (including gains from the alienation of property forming part of the business property of such a permanent establishment) in a year and previous years after deducting therefrom:

- (a) business losses attributable to such a permanent establishment (including losses from the alienation of property forming part of the business property of such a permanent establishment) in such year and previous years;
- (b) all taxes, other than the additional tax referred to in this paragraph, imposed on such profits in that State;

- (c) the profits reinvested in that State as determined in accordance with the laws of that State; and
- (d) five hundred thousand Canadian dollars (\$500,000), or its equivalent in Euros, less any amount deducted in that State under this subparagraph by the company or a company associated therewith with respect to the same or a similar business; for the purposes of this subparagraph a company is associated with another company if either company participates directly or indirectly in the management or control of the other company or if the same persons participate directly or indirectly in the management or control of both companies.

7. The provisions of paragraph 6 shall also apply with respect to earnings derived from the alienation of immovable property in a Contracting State by a company carrying on a trade in immovable property, whether or not it has a permanent establishment in that State, but only insofar as these earnings may be taxed in that State under the provisions of Article 6 or paragraph 1 of Article 13.

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 10 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 it is paid:

- (a) in respect of indebtedness of the government of that Contracting State or of a political subdivision or local authority thereof provided that the interest is beneficially owned by a resident of the other Contracting State;
- (b) to a resident of the other Contracting State, who is the beneficial owner thereof, with respect to indebtedness arising in consequence of the sale on credit by a resident of the other Contracting State of any equipment, merchandise or services, except where the sale or indebtedness was between related persons;
- (c) to a resident of the other Contracting State, who is the beneficial owner thereof, in respect of a loan made, guaranteed or insured, or a credit extended, guaranteed or insured
 - (i) in the case of Canada, by Export Development Canada; and
 - (ii) in the case of Ireland, under an export credit guarantee scheme administered by the Government of Ireland; or
- (d) 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 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 whether or not carrying a right to participate in the debtor's profits, and, in particular, income from government securities and income from bonds or debentures, as well as all other income assimilated to income from money lent by the taxation laws of the State in which the income arises but does not include any income which is treated as a dividend under 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 a resident of that State. Where, however, the person paying the interest, whether that person is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and the interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the Contracting 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 paid, 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 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 10 per cent of the gross amount of the royalties.

3. Notwithstanding the provisions of paragraph 2,

- (a) copyright royalties and other like payments in respect of the production or reproduction of any literary, dramatic, musical or artistic work (but not including royalties in respect of motion picture films nor royalties in respect of works on film or videotape or other means of reproduction for use in connection with television broadcasting), and
- (b) royalties for the use of, or the right to use, computer software or any patent or for information concerning industrial, commercial or scientific experience (but not including any such royalty 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 pictures or films, recordings on tape or other media used for radio or television broadcasting or other means of reproduction or transmission), any 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.

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 where the payer is a resident of that State. Where, however, the person paying the royalties, whether that person is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the obligation to pay the royalties was incurred and the royalties are borne by that permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting 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 paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13

Alienation of Property

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 derived by a resident of a Contracting State from the alienation of:

- (a) shares, other than shares in which there is substantial and regular trading on an approved stock exchange, deriving their value or the greater part of their value directly or indirectly from immovable property situated in the other Contracting State, or
- (b) an interest in a partnership or trust deriving its value or the greater part of its value directly or indirectly from immovable property situated in the other Contracting State,

may be taxed in that other State.

3. Gains, other than those dealt with in paragraph 2, 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 together with the whole enterprise) or of such fixed base, may be taxed in that other State.

4. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.

5. Gains from the alienation of any property, other than that referred to in the preceding paragraphs of this Article, shall be taxable only in the Contracting State of which the alienator is a resident.

6. The provisions of paragraph 5 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 five years

immediately preceding the alienation of the property if the property was owned by the individual before becoming a resident of that other State.

7. Where an individual ceases to be a resident of a Contracting State and by reason thereof is treated under the laws of that State as having alienated property before ceasing to be a resident of that State and is taxed in that State accordingly and at any time thereafter the individual becomes a resident of the other Contracting State, the individual may elect to be treated for purposes of taxation in the other State as if the individual had, immediately before ceasing to be a resident of the first-mentioned State, sold and repurchased the property for an amount equal to the lesser of its fair market value at that time and the amount treated for the purposes of taxation in the first-mentioned State as realised by the individual under such deemed alienation. However, this provision shall not apply to property any gain from which, arising immediately before the individual became a resident of that other State, may be taxed in that other State.

Article 14 **Independent Personal Services**

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless a fixed base is regularly available to the resident in the other Contracting State for the purpose of performing these activities. If the resident has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

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 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 tax year concerned of that other State,
- (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 derived 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 Contracting State.

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 person'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 athlete are exercised.

3. The provisions of paragraph 2 shall not apply if it is established that neither the entertainer or the sportsperson nor persons related thereto, participate directly or indirectly in the profits of the person referred to in that paragraph.

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

Article 18

Pensions and Annuities

1. A pension or an annuity arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. A pension arising in a Contracting State and paid to a resident of the other Contracting State may also be taxed in the State in which it arises, and according to the laws 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 the periodic pension payments made to the recipient in the calendar year concerned that exceeds twelve thousand Canadian dollars or its equivalent in Euros; 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 a resident of the Contracting State in which the payment arises.

3. An annuity arising in a Contracting State and paid to a resident of the other Contracting State may also be taxed in the State in which it arises, and according to the laws 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. In this Article, the term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

5. Notwithstanding anything in this Convention, 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 or during military service) 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 they would be exempt from tax in the first-mentioned State if received by a resident of that 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 Contracting State or subdivision or authority in any other State in the discharge of functions of a governmental nature shall be taxable only in the first-mentioned State.
 - (b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.

2. The provisions of paragraph 1 shall not apply to remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20

Students

Payments which a person who is 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 Contracting State solely for the purpose of the person's education or training receives for the purpose of the person's maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 21

Other Income

1. Subject to the provisions of paragraph 2, items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State if the recipient is the beneficial owner thereof.

2. However, if such income is derived by a resident of a Contracting State from sources in the other Contracting State, such income may also be taxed in the State in which it arises, and according to the laws of that State. Where such income is income from an estate or a trust, other than a trust to which contributions were deductible, the tax so charged shall not exceed 15 per cent of the gross amount of the income.

Article 22

Miscellaneous Rules Applicable to Certain Offshore Activities

1. The provisions of this Article shall apply notwithstanding any other provision of this Convention where activities (in this Article called “relevant activities”) are carried on in connection with the exploration or exploitation of the sea bed and subsoil and their natural resources situated in a Contracting State.

2. An enterprise of a Contracting State which carries on relevant activities in the other Contracting State shall, subject to paragraph 3, be deemed to be carrying on business in that other State through a permanent establishment situated therein.

3. Paragraph 2 shall not apply to relevant activities which are carried on by an enterprise of a Contracting State in the other Contracting State for a period or periods not exceeding in the aggregate 30 days within any period of twelve months. For the purposes of this paragraph:

- (a) where an enterprise of a Contracting State carrying on relevant activities in the other Contracting State is associated with another enterprise carrying on substantially similar relevant activities there, the former enterprise shall be deemed to be carrying on all such activities of the latter enterprise, except to the extent that those activities are carried on at the same time as its own activities;
- (b) an enterprise shall be regarded as associated with another enterprise if one participates directly or indirectly in the management, control or capital of the other or if the same persons participate directly or indirectly in the management, control or capital of both enterprises.

4. A resident of a Contracting State who carries on relevant activities in the other Contracting State, which consist of professional services or other activities of an independent character, shall be deemed to be performing those activities from a fixed base in that other State unless the activities are performed in that other State for a period or periods not exceeding in the aggregate 30 days within any period of twelve months.

5. Salaries, wages and other remuneration derived by a resident of a Contracting State in respect of an employment connected with relevant activities in the other Contracting State may, to the extent that the employment is performed offshore in that other State, be taxed in that other State. However, such remuneration shall be taxable only in the first-mentioned State if:

- (a) the employment is carried on for a period or periods not exceeding in the aggregate 30 days in any twelve-month period,
- (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.

IV. Methods for Prevention of Double Taxation

Article 23

Elimination of Double Taxation

1. Subject to the existing provisions of the laws 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,

- (a) tax payable in Ireland on profits, income or gains arising in Ireland shall be deducted from any Canadian tax payable in respect of such profits, income or gains;
- (b) where a company which is a resident of Ireland pays a dividend to a company which is a resident of Canada and which controls directly or indirectly at least 10 per cent of the voting power in the first-mentioned company, the credit shall take into account

the tax payable in Ireland by that first-mentioned company in respect of the profits out of which such dividend is paid; and

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

2. Subject to the provisions of the laws of Ireland regarding the allowance as a credit against Irish tax of tax payable in a territory outside Ireland (which shall not affect the general principle hereof):

- (a) Canadian tax payable under the laws of Canada and in accordance with this Convention, whether directly or by deduction, on profits, income or gains from sources within Canada (excluding in the case of a dividend tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any Irish tax computed by reference to the same profits, income or gains by reference to which Canadian tax is computed;
- (b) in the case of a dividend paid by a company which is a resident of Canada to a company which is a resident of Ireland and which controls directly or indirectly 10 per cent or more of the voting power in the company paying the dividend, the credit shall take into account (in addition to any Canadian tax creditable under the provisions of subparagraph (a)) Canadian tax payable by the company in respect of the profits out of which such dividend is paid; and
- (c) where, in accordance with any provisions of the Convention, profits, income or gains of a resident of Ireland are exempt from tax in Ireland, Ireland may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted profits, income or gains.

3. For the purposes of paragraphs 1 and 2, profits, income and gains of a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention shall be deemed to arise from sources in that other Contracting State.

V. Special Provisions

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, 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 contained in this Article shall be construed as obliging a Contracting State to grant to a resident of the other Contracting State any exemptions, allowances, reliefs and reductions for tax purposes which 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 which is more burdensome than the taxation and connected requirements to which other similar enterprises which are residents of the first-mentioned State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of a third State, are or may be subjected.

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

Article 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 laws of those States, address to the competent authority of the Contracting State of which that person is a resident an application in writing stating the grounds for claiming the revision of such taxation. To be admissible, the said application must be submitted within two years from the first notification of the action which gives rise to taxation not in accordance with the Convention.
2. The competent authority referred to in paragraph 1 shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the provisions of this Convention.
3. A Contracting State shall not, after the expiry of the time limits provided in its national laws and, in any case, after six 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 or wilful default.
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 this Convention.
5. The competent authorities of the Contracting States may communicate with each other directly for the purpose of applying the Convention.
6. If any difficulty or doubt arising as to the interpretation or application of the Convention cannot be resolved by the competent authorities pursuant to the preceding paragraphs of this Article, the case may, if both competent authorities and the taxpayer agree, be submitted for arbitration, provided that the taxpayer agrees in writing to be bound by the decision of the arbitration board. The competent authorities may release to the arbitration board such information as is necessary for carrying out the arbitration procedure. The decision of the arbitration board in a particular case shall be binding on both States with respect to that case. The procedure shall be established in an exchange of notes between 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 this Convention insofar as the taxation is not contrary to the Convention. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement in respect of, or the determination of appeals in relation to, the taxes covered by this Convention. 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 administrative practice of that or of the other Contracting State;

- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 27

Members of Diplomatic Missions and Consular Posts

Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

Article 28

Miscellaneous Rules

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

- (a) by the laws of a Contracting State in the determination of the tax imposed by that State; or
- (b) by any other agreement entered into by a Contracting State.

2. Where, under any provision of this Convention, income or gains is or are wholly or partly relieved from tax in a Contracting State and, under the laws in force in the other Contracting State, an individual, in respect of the said income or gains, is subject to tax by reference to the amount thereof which is remitted to or received in that other State, and not by reference to the full amount thereof, then the relief to be allowed under this Convention in the first-mentioned State shall apply only to so much of the income or gains as is remitted to or received in that other State.

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

4. 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.

5. For the purposes of paragraph 3 of Article XXII (Consultation) of the General Agreement on Trade in Services, the Contracting States agree that, notwithstanding that paragraph, 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 that paragraph, only with the consent of both Contracting States. Any doubt as to the interpretation of this paragraph shall be resolved under paragraph 4 of Article 25 or, failing agreement under that procedure, pursuant to any other procedure agreed to by both Contracting States.

6. Contributions in a year in relation to services rendered in that year paid by, or on behalf of, an employee who is a resident of a Contracting State or who is temporarily present in that State, to a pension plan that is recognised for tax purposes in the other Contracting State shall, during a period not exceeding in the aggregate 60 months, be treated in the same way for tax purposes in the first-mentioned State as a contribution paid to a pension plan that is recognised for tax purposes in that first-mentioned State, if

- (a) such employee was contributing on a regular basis to the pension plan for a period ending immediately before that individual became a resident of or temporarily present in the first-mentioned State; and
- (b) the competent authority of the first-mentioned State agrees that the pension plan generally corresponds to a pension plan recognised for tax purposes by that State.

For the purposes of this paragraph, “pension plan” includes a pension plan created under the social security system in a Contracting State.

7. Where, under paragraph 6, contributions to a foreign pension plan are deductible in computing an individual’s taxable income in a Contracting State and, under the laws in force in that State, the individual is, in respect of income or gains, subject to tax by reference only to the amount thereof which is remitted to or received in that State, and not by reference to the full amount of such income or gains, then the deduction which would otherwise be allowed to the individual under paragraph 6 in respect of such contributions shall be reduced to an amount that bears the same proportion to such deduction as the amount remitted bears to the full amount of the income or gains of the individual that would be taxable in that State if the income or gains had not been taxable on the amount remitted only.

8. Notwithstanding the provisions of Article 10, dividends arising in a Contracting State and paid to an organisation that was constituted and is operated in the other Contracting State exclusively to administer funds or provide benefits under one or more pension, retirement or employee benefits plans shall be exempt from tax in the first-mentioned State if

- (a) the organisation is the beneficial owner of the shares on which the dividends are paid, holds those shares as an investment and is generally exempt from tax in the other State;
- (b) the organisation does not own directly or indirectly more than 5 per cent of the capital or 5 per cent of the voting stock of the company paying the dividends; and
- (c) the class of shares of the company on which the dividends are paid is regularly traded on an approved stock exchange.

VI. Final Provisions

Article 29

Entry Into Force

1. Each of the Contracting States shall notify the other through diplomatic channels of the completion of the procedures required by law for the bringing into force of this Convention. The Convention shall enter into force on the date of the later of these notifications and its provisions shall thereupon 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 next 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 next following that in which the Convention enters into force;
- (b) in Ireland:

- (i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after the first day of January in the calendar year next following that in which the Convention enters into force; and
- (ii) in respect of corporation tax, for any financial year beginning on or after the first day of January in the calendar year next following that in which the Convention enters into force.

2. The Agreement between the Government of Canada and the Government of Ireland for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed at Ottawa on November 23, 1966 (hereinafter referred to as “the 1966 Agreement”), shall cease to have effect from the dates on which this Convention becomes effective in accordance with paragraph 1.

3. The 1966 Agreement shall terminate on the last date on which it has effect in accordance with paragraph 2.

Article 30 Termination

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention at any time after five years from the date on which the Convention enters into force provided that at least six months prior notice of termination has been given through diplomatic channels. In such event, this 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 in the calendar year next following the date on which the period specified in the said notice of termination expires; and
- (ii) in respect of other Canadian tax for taxation years beginning on or after the first day of January in the calendar year next following the date on which the period specified in the said notice of termination expires;

(b) in Ireland:

- (i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after the first day of January in the calendar year next following the date on which the period specified in the said notice of termination expires; and
- (ii) in respect of corporation tax, for any financial year beginning on or after the first day of January in the calendar year next following the date on which the period specified in the said notice of termination expires.