

## AGREEMENT OF 21<sup>ST</sup> JUNE, 2010

### Barbados

CONVENTION BETWEEN THE REPUBLIC OF PANAMA AND BARBADOS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

#### Chapter 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. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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

*a)* in Panama:

The impuesto sobre la renta provided in the Código Fiscal, Libro IV, Título I, and its related decrees and regulations.

(hereinafter referred to as “Panama tax”)

*b)* in Barbados:

(i) the income tax (including premium income tax);

(ii) the corporation tax (including the tax on branch profits); and

(iii) the petroleum winning operations tax.

(hereinafter referred to as “Barbados tax”)

4. The Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their taxation laws.

#### Chapter II Definitions

### Article 3 General Definitions

1. For the purposes of this Convention, unless the context otherwise requires:
  - a) the term “Panama” means the Republic of Panama and, when used in a geographical sense, means the territory of the Republic of Panama, including inland waters, its airspace, the territorial sea and any area outside the territorial sea upon which, in accordance with International Law and on application of its domestic legislation, the Republic of Panama exercises, or may exercise in the future, jurisdiction or sovereign rights with respect to the seabed, its subsoil and superjacent waters, and their natural resources;
  - b) the term “Barbados” means the present territory of Barbados including the territorial sea and any maritime area situated outside the territorial sea of Barbados, which has been or might in the future be designated under the national law of Barbados in accordance with international law as an area within which Barbados may exercise its sovereign rights and jurisdiction to explore, exploit and preserve the seabed, subsoil and the natural resources;
  - c) the terms “a Contracting State” and “the other Contracting State” mean Panama or Barbados as the context requires;
  - d) the term “person” includes an individual, a company and any other body of persons;
  - e) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
  - f) the term “enterprise” applies to the carrying on of any business, including the performance of services and of other activities of an independent character;
  - g) 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;
  - h) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
  - i) the term “competent authority” means:
    - (i) in Panama, the Ministerio de Economía y Finanzas or his authorized representative;
    - (ii) in Barbados, Minister responsible for Finance or his authorized representative;
  - j) the term “national” in relation to a Contracting State, means:
    - (i) any individual possessing the nationality or citizenship of that Contracting State; and
    - (ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State.

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, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

#### **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 his domicile, residence, place of incorporation, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. 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 situated therein.

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 only 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 only 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 permanent home or centre of vital interests cannot be determined according to paragraph a), he shall be deemed to be a resident only 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 only 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 person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

#### **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. Likewise the term “permanent establishment” encompasses:

- a) A building site, a construction, assembly or installation project, or supervisory activities in connection therewith, constitutes a permanent establishment but only where such site, project or activities continue for a period or periods exceeding in the aggregate of more than 183 days within any twelve-month period;
- b) the rendering of services in a Contracting State, including consulting services, by an enterprise through employees or other personnel engaged by the enterprise, but only where these employees or personnel are present in that Contracting State for the performance of the same or connected project, during a period or periods aggregating more than 183 days in any twelve month period;
- c) the use of a structure, installation, drilling rig, ship or other similar equipment for the exploration, or exploitation of, natural resources; or in activities connected with that exploration or exploitation for a period or periods exceeding 183 days in any twelve month period.

**4.** For the purposes of determining the duration of activities under paragraph 3, the period during which activities are carried on in a Contracting State by an enterprise associated with another enterprise shall be aggregated with the period during which activities are carried on by the enterprise with which it is associated if the first-mentioned activities are connected with the activities carried on in that State by the last-mentioned enterprise, provided that any period during which two or more associated enterprises are carrying on concurrent activities is counted only once. An enterprise shall be deemed to be associated with another enterprise if one is controlled directly or indirectly by the other, or if both are controlled directly or indirectly by a third person or persons.

**5.** 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.

**6.** Notwithstanding the provisions of paragraphs 1, 2 and 3 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 with respect to any activities that such person undertakes for the enterprise if such person:

- a) has, and habitually exercises, in that Contracting State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 5 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; or

- b) has no such powers, but habitually maintains in the first mentioned State a warehouse for goods or merchandise which is regularly used to deliver goods or merchandise in the name of the enterprise, if the goods or merchandise are invoiced in the Contracting State where the warehouse is located.

7. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, 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, and conditions are made or imposed between that enterprise and the agent in their commercial and financial relations which differ from those which would have been made between independent enterprises, 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.

### **Chapter 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. The term “immovable property” shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. Whereby the ownership of shares, participations or other rights in an enterprise or any other legal person attributes directly or indirectly to a resident of a Contracting State right to the use of immovable property situated in the other Contracting State that said entity or legal person possesses therein, the income derived by the owner of the shares, participations or rights as a result of the direct use, letting, or use in any other form of said property, may be taxed in the Contracting State in which the immovable property is situated, to the same extent to which the owner of such rights would be taxed if he were a resident of that other State.

5. The provisions of paragraphs 1, 3 and 4 shall also apply to the income from immovable property of an enterprise.

#### **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. Notwithstanding the provisions of paragraph 1, where an enterprise of a Contracting State which has a permanent establishment in the other Contracting State carries on business activities in that other State otherwise than through the permanent establishment, of the same or similar kind as the business activities carried on by the permanent establishment, then the profits of such activities may be attributable to the permanent establishment unless the enterprise shows that there were bona fide commercial, regulatory or legal reasons why such activities were not undertaken by the permanent establishment.

3. Subject to the provisions of paragraph 4, 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.

4. 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.

5. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 3 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

6. 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.

7. 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.

8. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

## **Article 8**

### **Shipping and Air Transport**

1. Profits of an enterprise that is a resident of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

2. For the purposes of this Article

- a) the term “profits” means:
  - (i) profits, net profits, gross income and income derived directly from operating ships or aircraft in international traffic; and
  - (ii) the interest over the amounts generated for the direct operation of ships or aircrafts in international traffic that are incidental to said operation.
- b) the term “operation of ships and aircrafts” in international traffic by a person includes:
  - (i) the freight or lease of ships or aircrafts for its use in international traffic, including ships or aircrafts duly equipped, crewed and supplied, and empty ships or aircrafts;

- (ii) the sale of tickets or similar documents for the rendering of related services to international traffic, for the enterprise itself; and
- (iii) the leasing or use of containers and related equipment.

3. The provisions of paragraphs 1 and 2 apply as well to the benefits originating from the participation in a “pool”, consortium or joint venture or in an international organization or agency engaged in international operations, but only with regard to the share of the benefits attributable to each participant proportionally to its participation in the joint enterprise.

4. The provisions of this Convention shall not apply with regard to the tolls, duties or similar payments that might be imposed by Panama for crossing or using the services of the Panama Canal.

## **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 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.

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

- a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 25 per cent of the capital of the company paying the dividends;
- b) 75 per cent of the statutory nominal rate applicable at the time of the dividend distribution 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, mining rights, founders’ shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 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 situated in that other State, nor subject the company’s undistributed profits to a tax on the company’s 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 other provision of this Convention, where a company which is a resident of a Contracting State has a permanent establishment in the other Contracting State, the profits taxable under article 7, paragraph 1, may be subject to an additional tax on the profits of a permanent establishment in that other State, in accordance with its laws, but the additional charge shall not exceed 5 per cent of the amount of those profits.

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

- a) 5 per cent of the gross amount of the interest if the beneficial owner is a bank that is a resident of the other Contracting State; and
- b) 7.5 per cent of the gross amount of the interest in any other case.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State, if

- a) the beneficial owner of the interest is a Contracting State, the Central Bank of a Contracting State, any of its political subdivisions or local entities; or
- b) the interest is paid to other entities or bodies (including financial institutions) as a result of financing provided by such institutions or bodies in connection with agreements concluded between the Governments of the Contracting States.

4. The term “interest” as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and 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, including premiums or prizes attaching to such securities, bonds or debentures. Penalty charges for a late payment shall not be regarded as interest for the purpose of this Article.

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, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 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 he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner of the interest 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 of the interest in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

## **Article 12**

### **Royalties**

1. Royalties arising in a Contracting State and whose beneficial owner is 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 beneficial owner of the royalties is a resident of the other contracting State, the tax so charged shall not exceed 7.5 per cent 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 of literary, artistic or scientific work including software, cinematograph films, or films or tapes and other means of image or sound reproduction, any patent, trade mark, drawings, designs or models, plans, secret formulas or processes, or for the use of, or the right to use, industrial, commercial, or scientific equipment or for information concerning industrial commercial or scientific experience.

4. Notwithstanding the provisions of paragraphs 1 and 2, copyright royalties in respect of the use of, or the right to use any literary, artistic or scientific work (including royalties in respect of cinematograph films and films, discs or tapes for radio or television broadcasting) arising in a Contracting State and paid to a resident of the other Contracting State shall be exempt from tax in the first-mentioned State.

5. The provisions of paragraphs 1, 2 and 4 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, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

6. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by the permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

## **Article 13**

### **Capital Gains**

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.
3. Gains derived by a resident 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 Contracting State.
4. Gains derived by a resident of a Contracting State from the alienation of shares or comparable interests representing more than 25 per cent of the voting rights or capital in a company resident of the other Contracting State, when those shares or comparable interests have been held by the alienator for less than a twelve-month period prior to the date of the alienation, may also be taxed in that other State.
5. Gains derived by a resident of a Contracting State from the alienation of shares or comparable interests deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.
6. 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.

## **Article 14**

### **Services**

1. Income derived by a resident of a Contracting State for services rendered in the other Contracting State, may be subject to taxes in the first-mentioned State. However, such income may also be taxed in the Contracting State where the services were rendered, as long as such services qualify as professional services, consulting services, industrial commercial advice, technical or management services or similar services. The tax so charged may not exceed 7.5 per cent of the gross amount of the payment when the beneficial owner of said payments is a resident of the other Contracting State.

However, if the services are not rendered in any of the Contracting States, income from such services may be taxed in the Contracting State from where the income from such services arises. The income from such services shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the income from such services, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the income from such services was incurred, and such income is borne by the permanent establishment, then such income shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

2. The term “professional services” as used in this Article include independent, scientific, literary, artistic, and educational activities, as well as medical, legal, engineering, architectural, dental and accounting activities.
3. The provisions of paragraph 1 shall not apply if the service provider, being a resident of a Contracting State, carries on a business in the other Contracting State in which the services income arise through a permanent establishment situated therein and the activity in respect of which the fees are paid is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 shall apply.
4. Where, by reason of a special relationship between the service provider and the beneficiary of the services or between both of them and some other person, the amount of the services income exceeds the amount which would have been agreed upon by the service provider and the beneficiary of the services 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 service income shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

## **Article 15**

### **Income From Employment**

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal 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 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 a resident of a Contracting State may be taxed in that State.

## **Article 16**

### **Directors' Fees**

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 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 7 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 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 a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities performed in a Contracting State by entertainers or sportspersons if the visit to that State is supported at least 75 per cent by

public funds of the other Contracting State or a political subdivision or a local authority thereof. In such a case the income shall be taxable only in the State of which the entertainer or sports person is a resident.

## **Article 18**

### **Pensions**

1. Pensions and similar remunerations paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.
2. Notwithstanding the provisions of paragraph 1 of this Article, pensions and other similar payments made under the social security legislation of a Contracting State shall be taxable only in that State.

## **Article 19**

### **Government Service**

1.
  - a) Salaries, wages and other similar remuneration (excluding pensions) paid by a Contracting State or any political subdivision or local authority thereof to an individual in respect of services rendered to that State or political subdivision or local authority shall be taxable only in that State.
  - b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
    - (i) is a national of that State; or
    - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2. Any pension paid by, or out of the funds created 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:
  - a) shall be taxable only in that State; and
  - b) shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.
3. The provisions of articles 15, 16, 17 and 18 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

## **Article 20**

### **Students**

Payments received by a student or business apprentice for covering his maintenance or studies, 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 purpose of his maintenance, education or training shall not be taxed in the first-mentioned State, provided that such payments arise from sources outside that State.

## **Article 21**

## **Other Income**

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
3. Where, by reason of a special relationship between the persons who have carried on activities from which income referred to in paragraph 1 are derived, the payment for such activities exceeds the amount which would have been agreed upon by independent persons, the provisions of paragraph 1 shall apply only to the last mentioned amount. In such case, the excess part of the payment shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of the Convention.
4. Notwithstanding the provisions of paragraphs 1 and 2, items of income derived by a resident of a Contracting State and arising in the other Contracting State may be taxed in that other State.

## **Chapter IV Methods for Elimination of Double Taxation**

### **Article 22 Elimination of Double Taxation**

Double taxation shall be avoided as follows:

1. In Panama,
  - a) where a resident of Panama derives income which, in accordance with the provisions of this Convention, may be taxed in Barbados, Panama will exempt such income from taxes;
  - b) where in accordance with any provision of the Convention income derived by a resident of Panama is exempt from tax in Panama, Panama may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income;
  - c) to the extent a resident of Panama may be subject to income tax in Panama on income generated in Barbados, Panama shall exempt such income if it arises out of companies operating under the following regimes:
    - (i) Fiscal Incentives Act, Cap 71A;
    - (ii) Shipping (Incentives) Act, Cap. 90A;
    - (iii) Tourism Development Act, Cap. 341; and
    - (iv) Duties Taxes and Other Payments (Exemption) Act, Cap. 67B.
2. In Barbados,
  - a) subject to the provisions of the laws of Barbados regarding the allowance as a credit against Barbados tax of tax payable in a territory outside Barbados double taxation shall be eliminated as follows:

- (i) tax payable under the laws of Panama and in accordance with the Convention, whether directly or by deduction, on profits or income from sources within Panama (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 Barbados tax computed by reference to the same profits or income in respect of which the Panama tax is computed;
  - (ii) in the case of a dividend paid by a company that is a resident of Panama to a company that is a resident of Barbados and which holds directly at least 10 per cent of the capital of the company paying the dividend, the credit referred to in sub-paragraph (i) shall take into account, the Panama tax payable by the company paying the dividend in respect of the profits out of which such dividend is paid; and
  - (iii) the credit, however, shall in no case exceed the part of the tax, as computed before the credit is given, which is appropriate to the income which may be taxed in Panama.
- b) to the extent that a resident of Barbados may credit the taxes paid in Panama, Barbados shall include in the amount being credited the tax which is otherwise payable in Panama but has been spared, reduced or waived by Panama under the following provisions:
- (i) Código Fiscal Artículo 701, literal d (Zona Libre de Colón y otras Zonas Libres), and its related decrees and regulations;
  - (ii) Decreto de Gabinete No. 36 de 17 de septiembre de 2003, Artículo 14 (Zonas Libres de Petróleo) and its related decrees and regulations;
  - (iii) Decreto Ley No. 6 de 10 de febrero de 1998, which approves the Agreement between the State and the Fundación Ciudad del Saber para el Establecimiento y el Desarrollo de la Ciudad del Saber Cláusula Quinta, literal D)y E), and its related decrees and regulations;
  - (iv) Ley No. 41 de 20 de julio de 2004, Artículo 60 (Agencia del Área Económica Especial Panamá-Pacífico) and its related decrees and regulations;
  - (v) Ley No. 41 de 24 de agosto de 2007, Artículo 21, and Decreto Ejecutivo No. 28 de 27 de marzo de 2009 del Ministerio de Comercio e Industria, Artículo 26 (Sedes de Empresas Multinacionales), and its related decrees and regulations;
  - (vi) Ley No. 25 de 30 de noviembre de 1992, Artículo 27 (Zonas Procesadoras para la Exportación) and its related decrees and regulations; and
  - (vii) Any other provision which may subsequently be made, granting an exemption which is agreed by the competent authorities of Panama and Barbados to be of a substantially similar character.

## **Chapter V Special Provisions**

### **Article 23 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, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

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 and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

#### **Article 24** **Mutual Agreement Procedure**

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavor, 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 Convention. Any agreement reached shall be implemented notwithstanding the statute of limitations in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

#### **Article 25** **Exchange of Information**

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of

their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 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) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. 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.

3. In no case shall the provisions of paragraphs 1 and 2 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).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institutions, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

## **Article 26**

### **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.

## **Chapter VI**

### **Final Provisions**

## **Article 27**

### **Entry Into Force**

1. The Governments of the Contracting States shall notify each other of the internal procedures required by each Contracting State for the entry into force of this Convention.

2. The Convention shall enter into force on the date of receipt of the later of the notifications referred to in paragraph 1 and its provisions shall have effect:

- a) with respect to withholding taxes on income derived on or after January 1st of the calendar year following the year in which this Convention enters into force; and

- b)* with respect to income taxes and other taxes (other than withholding taxes), for any tax year beginning on or after January 1st of the calendar year following the year in which this Convention enters into force.

**Article 28**  
**Termination**

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year beginning on or after the expiration of a period of five years from the date of its entry into force. In such event, the Convention shall cease to have effect:

- a)* with respect to withholding taxes, on income derived on or after January 1st of the calendar year following the year in which the notice of termination is given;
- b)* with respect to income taxes and other taxes (other than withholding taxes), for any tax year beginning on or after January 1st of the calendar year following the year the notice of termination is given.