

UK/CANADA DOUBLE TAXATION CONVENTION

SIGNED 8 SEPTEMBER 1978

Entered into force 17 December 1980

Effective in United Kingdom from 1 April 1976 for corporation tax, from
6 April 1976 for income tax and capital gains tax.

Effective in Canada from 1 January 1976 for withholding tax on income
derived by non-residents and other Canadian tax on income or gains.

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SCHEDULE

CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF CANADA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS.

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Canada;

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:

ARTICLE 1

Personal Scope

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

ARTICLE 2

Taxes Covered

1. The taxes which are the subject of this Convention are:

(a) in Canada:

the income taxes which are imposed by the Government of Canada, (hereinafter referred to as "Canadian tax");

(b) in the United Kingdom of Great Britain and Northern Ireland:

the income tax, the corporation tax, the capital gains tax, the petroleum revenue tax and the development land tax (hereinafter referred to as "United Kingdom tax").

2. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of this Convention in addition to, or in place of, the existing taxes by either Contracting State or by the Government of any territory to which the present Convention is extended under Article 26. The Contracting States shall notify each other of changes which have been made in their respective taxation laws.

ARTICLE 3

General Definitions

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

- (a) (i) the term "Canada" used in a geographical sense, means the territory of Canada, including any area beyond the territorial waters of Canada which is an area where Canada may, in accordance with its national legislation and international law, exercise sovereign rights with respect to the sea-bed and sub-soil and their natural resources;
- (ii) the term "United Kingdom" means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which in accordance with international law has been or may be hereafter designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea-bed and sub-soil and their natural resources may be exercised;
- (b) the terms "a Contracting State" and "the other Contracting State" mean, as the context requires, the United Kingdom or Canada;
- (c) the term "person" comprises an individual, a company, any entity treated as a unit for tax purposes or any other body of persons;
- (d) the term "company" means any body corporate or any other entity which is treated as a body corporate for tax purposes; in French, the term "société" also means a "corporation" within the meaning of Canadian law;
- (e) 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;
- (f) the term "competent authority" means:
 - (i) in the case of Canada, the Minister of National Revenue or his authorised representative;
 - (ii) in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative;
- (g) the term "tax" means United Kingdom tax or Canadian tax, as the context requires;
- (h) the term "national" means:—
 - (i) in relation to the United Kingdom all citizens of the United Kingdom and Colonies, British Subjects under Sections 2, 13(1) or 16 of the British Nationality Act 1948, and British Subjects by virtue of Section 1 of the British Nationality Act 1965, provided they are patrial within the meaning of the Immigration Act 1971, so far as these provisions are in force on the date of entry into force of this Convention or have been modified only in minor respects, so as not

to affect their general character; and all legal persons, partnerships, and associations deriving their status as such from the law in force in the United Kingdom;

- (ii) in relation to Canada, all citizens of Canada and all legal persons, partnerships and associations deriving their status as such from the law in force in Canada.

2. As regards the application of the Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the Convention.

ARTICLE 4

Fiscal Domicile

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that Contracting State in respect only of income from sources 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 of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);
- (b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- (d) if he 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 by mutual agreement endeavour to settle the question and to determine the mode of application of the Convention to such person.

ARTICLE 5

Permanent Establishment

1. For the purposes of this Convention, the term “permanent establishment” means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

2. The term “permanent establishment” shall include especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, quarry or other place of extraction of natural resources;
- (g) a building site or construction or assembly project which exists for more than 12 months.

3. The term “permanent establishment” shall not be deemed 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 for collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research, or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. A person—other than an agent of an independent status to whom paragraph 5 applies—acting in a Contracting State on behalf of an enterprise of the other Contracting State shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that first-mentioned State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

5. 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, where such persons are acting in the ordinary course of their business.

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

ARTICLE 6

Income from Immovable Property

1. Income from immovable property, including income from agriculture or forestry, may be taxed in the Contracting State in which such property is situated.

2. For the purposes of this Convention, the term "immovable property" shall be defined in accordance with 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, boats 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 profits 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 professional services.

ARTICLE 7

Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on or has carried on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

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

3. In the determination of the profits of a permanent establishment situated in a Contracting State, there shall be allowed as deductions expenses of the enterprise (other than expenses which would not be deductible under the law of that State if the permanent establishment were a separate enterprise) which are incurred for the purposes of the permanent establishment including executive and general administrative expenses, whether incurred in the State in which the permanent establishment is situated or elsewhere.

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 embodied in this Article.

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

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. Where profits include items of income which are dealt with separately in other Articles of this Convention, the provisions of this Article shall not prevent the application of the provisions of those other Articles with respect to the taxation of such items of income.

ARTICLE 8

Shipping and Air Transport

1. Profits derived by 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 paragraph 1 and Article 7, profits derived from the operation of ships used principally to transport passengers or goods exclusively between places in a Contracting State may be taxed in that State.

3. The provisions of paragraphs 1 and 2 shall also apply to profits referred to in those paragraphs derived by an enterprise of a Contracting State from its participation in a pool, a joint business or in an international operating agency.

ARTICLE 9

Associated Enterprises

Where—

- (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any income, deductions, receipts or outgoings which would, but for those conditions, have been attributed to one of the enterprises, but, by reason of those conditions, have not been so attributed, may be taken into account in computing the profits or losses of that enterprise and taxed accordingly.

ARTICLE 10

Dividends

1. Dividends paid by a company which is a resident of Canada to a resident of the United Kingdom may be taxed in the United Kingdom. Such dividends may also be taxed in Canada, and according to the laws of Canada, but provided that the beneficial owner of the dividends is a resident of the United Kingdom the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

2. Dividends paid by a company which is a resident of the United Kingdom to a resident of Canada may be taxed in Canada. Such dividends may also be taxed in the United Kingdom, and according to the laws of the United Kingdom, but provided that the beneficial owner of the dividends is a resident of Canada the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

3. However, as long as an individual resident in the United Kingdom is entitled to a tax credit in respect of dividends paid by a company resident in the United Kingdom, the following provisions of this paragraph shall apply instead of the provisions of paragraph 2 of this Article:

- (a) (i) Dividends paid by a company which is a resident of the United Kingdom to a resident of Canada may be taxed in Canada.
- (ii) Where a resident of Canada is entitled to a tax credit in respect of such a dividend under sub-paragraph (b) of this paragraph, tax may also be charged in the United Kingdom and according to the laws of the United Kingdom, on the aggregate of the amount or value of that dividend and the amount of that tax credit at a rate not exceeding 15 per cent.
- (iii) Except as provided in sub-paragraph (a) (ii) of this paragraph, dividends paid by a company which is a resident of the United Kingdom to a resident of Canada who is the beneficial owner of those dividends shall be exempt from any tax which is chargeable in the United Kingdom on dividends.
- (b) A resident of Canada who receives a dividend from a company which is a resident of the United Kingdom shall, subject to the provisions of sub-paragraph (c) of this paragraph and provided he is the beneficial owner of the dividend, be entitled to the tax credit in respect thereof to which an individual resident in the United Kingdom would have been entitled had he received that dividend, and to payment of any excess of such credit over his liability to United Kingdom tax.
- (c) The provisions of sub-paragraph (b) of this paragraph shall not apply where the beneficial owner of the dividend is a company which, either alone or together with one or more associated companies, controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend. For the purposes of this sub-paragraph two companies shall be deemed to be associated if one is controlled directly or indirectly by the other or both are controlled directly or indirectly by a third company.

4. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights not being debt-claims, participating in profits, as well as income assimilated to or treated in the same way as income from shares by the taxation law of the State of which the company making the payment is a resident.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the recipient of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State professional 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 a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Where a company is a resident of only one Contracting State, the other Contracting 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.

7. If a resident of Canada does not bear Canadian tax on dividends derived from a company which is a resident of the United Kingdom and owns 10 per cent or more of the class of shares in respect of which the dividends are paid, then neither paragraph 2 nor 3 shall apply to the dividends to the extent that they can have been paid only out of profits which the company paying the dividends earned or other income which it received in a period ending twelve months or more before the relevant date. For the purposes of this paragraph the term "relevant date" means the date on which the beneficial owner of the dividends became the owner of 10 per cent or more of the class of shares referred to above.

Provided that this paragraph shall not apply if the shares were acquired for *bona fide* commercial reasons and not primarily for the purpose of securing the benefit of this Article.

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 be taxed in the Contracting State in which it arises, and according to the law of that State; but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 15 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2 of this Article,

(a) interest arising in the United Kingdom and paid to a resident of Canada shall be taxable only in Canada if it is paid in respect of a loan made, guaranteed or insured, or a credit extended, guaranteed or insured by the Export Development Corporation; and

(b) interest arising in Canada and paid to a resident of the United Kingdom shall be taxable only in the United Kingdom if it is paid in respect of a loan made, guaranteed or insured, or a credit extended, guaranteed or insured by the United Kingdom Export Credits Guarantee Department.

4. (a) Notwithstanding the provisions of paragraph 2 of this Article, interest arising in Canada and paid in respect of a bond, debenture or other similar obligation of the Government of Canada or of a political subdivision or local authority thereof shall, provided that the interest is beneficially owned by a resident of the United Kingdom, be taxable only in the United Kingdom;

(b) Notwithstanding the provisions of Article 29 Canada may, on or before the thirtieth day of June in any calendar year give to the United Kingdom notice of termination of this paragraph and in such event this paragraph shall cease to have effect in respect of interest paid on obligations issued after 31 December of the calendar year in which the notice is given.

5. 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 and prizes attaching to bonds or debentures, as well as income assimilated to income from money lent by the taxation law of the State in which the income arises. However, the term "interest" does not include income dealt with in Article 10.

6. The provisions of paragraphs 1, 2 and 4 of this Article shall not apply if the recipient 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 professional 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 a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

8. Where, owing to a special relationship between the payer and the person deriving the interest or between both of them and some other person, the amount of the interest paid exceeds for whatever reason the amount which would have been paid in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

9. Any provision in the law of a Contracting State relating only to interest paid to a non-resident company shall not operate so as to require such interest paid to a company which is a resident of the other Contracting State to be treated as a distribution of the company paying such interest. The preceding sentence shall not apply to interest paid to a company which is a resident of a Contracting State in which more than 50 per cent of the voting power is controlled, directly or indirectly, by a person or persons resident in the other Contracting State.

10. The provisions of paragraph 2 of this Article shall not apply to interest where the beneficial owner of the interest—

- (a) does not bear tax in respect thereof in Canada; and
- (b) sells (or makes a contract to sell) the holding from which the interest is derived within three months of the date on which such beneficial owner acquired that holding.

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 be taxed in the Contracting State in which they arise, and according to the law 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, 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 and works on film or videotape for use in connection with television) arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.

4. The term “royalties” as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright, patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience, and includes payments of any kind in respect of motion picture films and works on film or videotape for use in connection with television.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the recipient 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 professional 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 a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

7. Where, owing to a special relationship between the payer and the person deriving the royalties or between both of them and some other person, the amount of the royalties paid exceeds for whatever reason the amount which would have been paid in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 13

Capital Gains

1. Gains from the alienation of immovable property may be taxed in the Contracting State in which such property is situated.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base may be taxed in the other State. However, gains derived by a resident of a Contracting State from the alienation of ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft, shall be taxable only in that Contracting State.

3. Gains from the alienation of:

- (a) any right, licence or privilege to explore for, drill for, or take petroleum, natural gas or other related hydrocarbons situated in a Contracting State or
- (b) any right to assets to be produced in a Contracting State by the activities referred to in sub-paragraph (a) above or to interests in or to the benefit of such assets situated in a Contracting State,

may be taxed in that State.

4. Gains from the alienation of:

- (a) shares, other than shares quoted on an approved stock exchange, deriving their value or the greater part of their value directly or indirectly from immovable property situated in a Contracting State or from any right referred to in paragraph 3 of this Article, or
- (b) an interest in a partnership or trust the assets of which consist principally of immovable property situated in a Contracting State, of rights referred to in paragraph 3 of this Article, or of shares referred to in sub-paragraph (a) above,

may be taxed in that State.

5. For the purposes of paragraph 4 of this Article "an approved stock exchange" means a stock exchange prescribed for the purposes of the Canadian Income Tax Act or a recognised stock exchange within the meaning of the United Kingdom Corporation Tax Acts.

6. Gains from the alienation of any property, other than those mentioned in paragraphs 1, 2, 3 and 4 shall be taxable only in the Contracting State of which the alienator is a resident.

7. The provisions of paragraph 6 of this Article shall not affect the right of a Contracting State to tax, according to its domestic law, gains derived by an individual resident in the other Contracting State from the alienation of any property, if the alienator:

- (a) is a national of the first-mentioned Contracting State or was a resident of that State for 15 years or more prior to the alienation of the property and
- (b) was a resident of the first-mentioned Contracting State at any time during the five years immediately preceding such alienation.

ARTICLE 14

Professional Services

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

2. The term "professional services" includes 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 17 and 18, 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 the calendar year concerned, and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

4. In relation to remuneration of a director of a company derived from the company the preceding provisions of this Article shall apply as if the remuneration were remuneration of an employee in respect of employment, and as if references to employer were references to the company.

ARTICLE 16

Artistes and Athletes

1. Notwithstanding the provisions of Articles 7, 14 and 15, income derived by entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

2. Where income in respect of personal activities as such of an entertainer or athlete accrues not to that entertainer or athlete himself 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 paragraphs 1 and 2 shall not apply:
- (a) to income derived from activities performed in a Contracting State by entertainers or athletes if the visit to that Contracting State is wholly or substantially supported by public funds;
 - (b) to a non-profit making organization no part of the income of which is payable, or is otherwise available for the personal benefit of, any proprietor, member or shareholder thereof; or
 - (c) to an entertainer or athlete in respect of services provided to an organization referred to in sub-paragraph (b).

ARTICLE 17

Pensions and Annuities

1. Pensions and annuities arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. However, such pensions and annuities may also be taxed in the first-mentioned Contracting State but only to the extent that the total amount thereof paid in any year of assessment or taxation year to the resident of the other Contracting State exceeds ten thousand Canadian dollars (\$10,000) or five thousand pounds sterling (£5,000), whichever is the greater. However, the tax so charged in the first-mentioned Contracting State shall not exceed the tax chargeable on such pensions and annuities in the other Contracting State.

2. Notwithstanding the provisions of paragraph 1 of this Article, pensions paid out of public funds of the United Kingdom or Northern Ireland or of the funds of any local authority in the United Kingdom to any individual in respect of services rendered to the Government of the United Kingdom or Northern Ireland or a local authority in the United Kingdom in the discharge of functions of a governmental nature may be taxed in the United Kingdom.

3. 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, but does not include payments of any kind under an income-averaging annuity contract.

4. Notwithstanding any other provision of this Convention, alimony and similar payments arising in a Contracting State and paid to a resident of the other Contracting State who is the beneficial owner thereof shall be taxable only in that other State.

ARTICLE 18

Government Service

1. (a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof shall be taxable only in that State.
(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the recipient 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 performing the services.
2. This Article shall not apply to remuneration in respect of services rendered in connection with any trade or business carried on by one of the Contracting States or a political subdivision or a local authority thereof.
3. In this Article, the term "political subdivision" shall, in relation to the United Kingdom, include Northern Ireland.

ARTICLE 19

Students

Payments which a student, apprentice or business trainee who is or was immediately before visiting one of the Contracting States a resident of a Contracting State and who is present in the other Contracting 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 that other State, provided that such payments are made to him from sources outside that other State.

ARTICLE 20

Estates and Trusts

1. Income received from an estate or trust resident in Canada by a resident of the United Kingdom who is the beneficial owner thereof may be taxed in Canada according to its law, but the tax so charged shall not exceed 15 per cent of the gross amount of the income.
2. The provisions of paragraph 1 of this Article shall not apply if the recipient of the income, being a resident of the United Kingdom, carries on business in Canada through a permanent establishment situated therein, or performs in

Canada professional services from a fixed base situated therein, and the right or interest in the estate or trust in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

ARTICLE 21

Elimination of Double Taxation

1. In the case of Canada, double taxation shall be avoided as follows:

- (a) Subject to the existing provisions of the law of Canada regarding the deduction from tax payable in Canada of tax paid in a territory outside Canada and to any subsequent modification of those provisions—which shall not affect the general principle hereof—and unless a greater deduction or relief is provided under the laws of Canada, tax payable in the United Kingdom on profits, income or gains arising in the United Kingdom shall be deducted from any Canadian tax payable in respect of such profits, income or gains.
- (b) Subject to the existing provisions of the law of Canada regarding the determination of the exempt surplus of a foreign affiliate and to any subsequent modification of those provisions—which shall not affect the general principle hereof—for the purpose of computing Canadian tax, a company resident in Canada shall be allowed to deduct in computing its taxable income any dividend received by it out of the exempt surplus of a foreign affiliate resident in the United Kingdom.

The terms “foreign affiliate” and “exempt surplus” shall have the meaning which they have under the Income Tax Act of Canada.

2. In the case of the United Kingdom, double taxation shall be avoided as follows: subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom (which shall not affect the general principle hereof):

- (a) tax payable under the laws of Canada and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable 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 United Kingdom tax computed by reference to the same profits, income or chargeable gains by reference to which the Canadian tax is computed; and
- (b) in the case of a dividend paid by a company which is a resident of Canada to a company which is resident in the United Kingdom and which controls directly or indirectly at least 10 per cent of the voting power in the Canadian company, the credit shall take into account (in addition to any tax creditable under (a)) tax payable under the

laws of Canada by the company in respect of the profits out of which such dividend is paid.

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

ARTICLE 22

Non-Discrimination

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

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging either Contracting State to grant to individuals not resident in its territory those personal allowances and reliefs for tax purposes which are by law available only to individuals who are so resident.

3. Subject to the provisions of paragraph 4 of this Article, nothing in this Convention shall be construed as preventing a Contracting State from imposing on the earnings attributable to a permanent establishment in that State of a company which is a resident of the other Contracting State, tax in addition to the tax which would be chargeable on the earnings of a company which is a resident of the first-mentioned State, provided that the rate of any additional tax so imposed shall not exceed the lesser of:

- (a) 15 per cent of the amount of such earnings which have not been subjected to such additional tax in previous taxation years, and
- (b) the rate specified in respect of such additional tax in any agreement or convention entered into by Canada with any third State.

For the purposes of this provision, the term "earnings" means an amount not in excess of the profits attributable to a permanent establishment in a Contracting State in a year and previous years after deducting therefrom all taxes, other than the additional tax referred to herein, imposed on such profits in that State.

4. The provisions of paragraph 3 of this Article shall not apply where the profits attributable to a permanent establishment in a year or previous years do not exceed in the aggregate 500,000 Canadian dollars or 250,000 pounds sterling, whichever is the greater.

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

ARTICLE 23

Mutual Agreement Procedure

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, without prejudice to the remedies provided by the national laws of those States, address to the competent authority of the Contracting State of which he is a resident an application in writing stating the grounds for claiming the revision of such taxation.

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 an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. In particular, the competent authorities of the Contracting States may reach agreement on:

- (a) the same attribution of profits to a resident of a Contracting State and its permanent establishment situated in the other Contracting State;
- (b) the same allocation of income between a resident of a Contracting State and any associated person provided for in Article 9.

ARTICLE 24

Exchange of Information

The competent authorities of the Contracting States shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for the carrying out of the provisions of this Convention or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to persons other than persons (including a court or administrative tribunal) concerned with the assessment, collection or enforcement in respect of the taxes which are the subject of this Convention. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

ARTICLE 25

Diplomatic and Consular Officials

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

2. This Convention shall not apply to International Organizations, to organs or officials thereof and to persons who are members of a diplomatic or permanent mission or consular post of a third State, being present in a Contracting State and not treated in either Contracting State as residents in respect of taxes on income or capital gains.

ARTICLE 26

Extension

1. This Convention may be extended, either in its entirety or with modifications to any territory for whose international relations either of the Contracting States is responsible, and which imposes taxes substantially similar in character to those which are the subject of this Convention and any such extension shall take effect from such date and subject to such modifications and conditions (including conditions as to termination) as may be specified and agreed between the Contracting States in notes to be exchanged for this purpose.

2. The termination of this Convention under Article 29 shall, unless otherwise expressly agreed by both Contracting States, terminate the application of this Convention to any territory to which it has been extended under this Article.

ARTICLE 27

Miscellaneous Rules

1. The provisions of this Convention shall not be construed to restrict in any manner any exclusion, exemption, deduction, credit or other allowance now or hereafter accorded by the laws of a Contracting State in the determination of the tax imposed by that Contracting State.

2. Where under any provision of this Convention any person is relieved from tax in a Contracting State on certain income and, under the law in force in the other Contracting State, that person is subject to tax in that other State in respect of that income by reference to the amount thereof which is remitted to or received in that other State, the relief from tax to be allowed under this Convention in the first-mentioned State shall apply only to the amounts so remitted or received.

3. Nothing in this Convention shall be construed as preventing Canada from imposing a tax on amounts included in the income of a resident of Canada by virtue of the provisions of section 91 of the Canadian Income Tax Act, so far as they are in force on the date of entry into force of this Convention, or have been modified only in minor respects, so as not to affect their general character.

4. The aggregate of the amount or value of the dividend and the amount of the tax credit referred to in paragraph 3(b) of Article 10 of this Convention shall be treated as a dividend for Canadian income tax purposes.

5. Each of the Contracting States will endeavour to collect on behalf of the other Contracting State such amounts as may be necessary to ensure that relief granted by this Convention from taxation imposed by that other State does not enure to the benefit of persons not entitled thereto. However, nothing in this paragraph shall be construed as imposing on either of the Contracting States the obligation to carry out administrative measures of a different nature from those used in the collection of its own tax or which would be contrary to its public policy.

6. The competent authorities of the Contracting States may communicate with each other directly for the purpose of applying this Convention.

ARTICLE 28

Entry into Force

1. The Convention shall come into force on the date when the last of all such things shall have been done in the United Kingdom and Canada as are necessary to give the Convention the force of law in the United Kingdom and Canada respectively and 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 1 January 1976;
- (ii) in respect of other Canadian taxes, for the 1976 taxation year and subsequent years;

(b) in the United Kingdom:

- (i) in relation to any dividend to which paragraph 3 of Article 10 applies in respect of income tax and payment of tax credit, for any year of assessment beginning on or after 6 April 1973. A dividend paid on or after 1 April 1973 but before 6 April 1973 shall be treated for tax credit purposes as paid on 6 April 1973;
- (ii) in relation to any other provision of this Convention, in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April 1976;

- (iii) in respect of corporation tax, for any financial year beginning on or after 1 April 1976;
- (iv) in respect of petroleum revenue tax for any chargeable period beginning on or after 1 January 1976;
- (v) in respect of development land tax, for any realised development value accruing on or after 1 August 1976.

2. The Governments of the Contracting States shall, as soon as possible, inform one another in writing of the date when the last of all such things have been done as are necessary to give the Convention the force of law in the United Kingdom and Canada respectively. The date specified by the last Government to fulfil this requirement, being the date on which the Convention shall come into force in accordance with paragraph 1, shall be confirmed in writing by the Government so notified.

3. Subject to the provisions of paragraph 4 of this Article the existing Agreement shall cease to have effect as respects taxes to which this Convention applies in accordance with the provisions of paragraph 1 of this Article.

4. Where, however, any greater relief from tax would have been afforded by any provision of the existing Agreement than is due under this Convention, any such provision as aforesaid shall continue to have effect—

- (a) in the United Kingdom for any year of assessment, chargeable period or financial year;
- (b) in Canada for any taxation year;
beginning before the entry into force of this Convention.

5. The existing Agreement shall terminate on the last date on which it has effect in accordance with the foregoing provisions of this Article.

6. The termination of the existing Agreement as provided in paragraph 5 of this Article shall not revive the Agreement between the Government of Canada and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation with respect to certain classes of Income signed at Ottawa on 6 December 1965(a). Upon the entry into force of this Convention that Agreement shall terminate.

7. In this Article the term “the existing Agreement” means the Agreement between the Government of Canada and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains signed at Ottawa on 12 December 1966(b).

(a) S.I. 1966/227.
(b) S.I. 1967/482.

ARTICLE 29

Termination

This Convention shall continue in effect indefinitely but the Government of either Contracting State may, on or before 30 June in any calendar year after the year 1980 give notice of termination to the Government of the other Contracting State and, in such event, this Convention shall cease to be effective:

- (a) in Canada:
 - (i) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after 1 January in the calendar year next following that in which the notice is given; and
 - (ii) in respect of other Canadian taxes for any taxation year ending in or after the calendar year next following that in which the notice is given;
- (b) in the United Kingdom;
 - (i) in respect of income tax and capital gains tax for any year of assessment beginning on or after 6 April in the calendar year next following that in which such notice is given;
 - (ii) in respect of corporation tax, for any financial year beginning on or after 1 April in the calendar year next following that in which such notice is given;
 - (iii) in respect of petroleum revenue tax for any chargeable period beginning on or after 1 January in the calendar year next following that in which such notice is given;
 - (iv) in respect of development land tax, for any realised development value accruing on or after 1 April in the calendar year next following that in which such notice is given.

In witness whereof the undersigned, duly authorised thereto, have signed this Convention.

Done in duplicate at London, this 8th day of September 1978 in the English and French languages, both texts being equally authoritative.

For the Government of the United
Kingdom of Great Britain and
Northern Ireland:

FRANK JUDD

For the Government of Canada:
PAUL MARTIN