

Convention Between Canada and the Cooperative Republic of Guyana

 For the Avoidance of Double Taxation and the Prevention of Fiscal Evasion With Respect to Taxes on Income and for the Encouragement of International Trade and Investment

This electronic version of the Canada-Guyana Income Tax Convention signed on October 15, 1985 is provided for convenience of reference only and has no official sanction.

The Government of Canada and the Government of the Cooperative Republic of Guyana desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and the encouragement of international trade and investment, have agreed as follows:

I. Scope of the Convention

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 the case of Canada: the income taxes imposed by the Government of Canada (hereinafter referred to as "Canadian tax");

b) in the case of the Cooperative Republic of Guyana: the Corporation Tax and Income tax which are imposed by the Government of the Cooperative Republic of Guyana (hereinafter referred to as "Guyana tax").

2. This Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, those referred to in the preceding paragraph.

3. The Contracting States shall notify each other of any change in the Laws relating to the taxes which are the subject of this Convention, within a reasonable period of time after such change.

II. Definitions

Article 3

General Definitions

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

a) the term "CANADA" used in a geographical sense, means the territory of Canada, including any area beyond the territorial seas 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 subsoil and their natural resources;

b) (i) the term "GUYANA" means the Cooperative Republic of Guyana; and

(ii) when used in a geographical sense, the term "GUYANA" includes the territorial seas thereof including any area beyond such territorial seas which in accordance with international law and the laws of Guyana, is an area within the rights of sovereignty with respect to the seabed and subsoil and their natural resources may be exercised;

c) the terms "a Contracting State", "one of the Contracting States" and "the other Contracting State" mean Canada or Guyana as the context requires;

d) the term "person" includes an individual, a company and any other entities which are treated as taxable persons under the taxation laws in force in either Contracting State;

e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes; in French, the term "société" also means a "corporation" within the meaning of Canadian law;

f) the terms "enterprise of one of the Contracting States" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of one of the Contracting States and an enterprise carried on by a resident of the other Contracting State;

g) the term "international traffic" includes traffic between places in one country in the course of a voyage which extends over more than one country;

h) the term "competent authority" means;

(i) in the case of Canada, the Minister of National Revenue or his authorized representative;

(ii) in the case of Guyana, the Minister of Finance or his authorized representative;

i) the term "national" means:

(i) any individual possessing the nationality of one of the Contracting States;

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

2. Where under this Convention any income is exempt or relieved from tax in one of the Contracting States and that income is subject to tax in the other Contracting State by reference to the amount thereof which is remitted to or received in that other Contracting State, the exemption or reduction of tax to be allowed under this Convention in the first-mentioned Contracting State shall apply only to the amount so remitted or received.

3. In the application of this Convention by a Contracting State any term not defined in this Convention shall, unless the context otherwise requires, have the meaning which it has under the law of that Contracting State relating to the taxes which are the subject of this Convention.

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 management or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States his status shall be determined in accordance with the following rules:

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 (hereinafter referred to as his 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, then the competent authorities of the Contracting States shall determine 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 this 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 through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" shall include especially:

a) a place of management;

b) a branch;

c) a store or other sales outlet;

d) an office;

e) a warehouse, in relation to a person providing storage facilities for others;

f) a factory;

g) a workshop;

h) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources; and

i) a building site or construction or assembly project which exists for more than six months.

3. 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 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 acting in one of the Contracting States on behalf of an enterprise of the other Contracting State - other than an agent of an independent status to whom paragraph 5 applies - shall be deemed to be a permanent establishment in the first-mentioned Contracting State;

a) if he has, and habitually exercises in that first-mentioned Contracting 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; or

b) if he maintains in that first-mentioned Contracting State a stock of goods or merchandise belonging to the enterprise from which he habitually fills orders or makes deliveries on behalf of the enterprise; or

c) if he maintains in that first-mentioned Contracting State equipment or machinery for rental or other purposes within such State for a period, or periods, exceeding in the aggregate six months during the year of income or the taxation year as the case may be.

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

III. Taxation of Income

Article 6

Income from Immovable Property

1. Income 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 independent personal services.

Article 7

Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on or has carried on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there

shall be attributed to the permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment situated in a Contracting State, there shall be allowed as deductions all expenses which would be deductible under the law of that State (if the permanent establishment were an independent enterprise) in so far as such expenses are reasonably allocable to the permanent establishment including executive and general administration expenses so deductible and allocable, whether incurred in the Contracting 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 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 a 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 affect the application of the provisions of those Articles with respect to the taxation of such items of income.

Article 8

Shipping and Air Transport

1. A resident of one of the Contracting States shall be exempt from tax in the other Contracting State on profits from the operation of ships or aircraft in international traffic.

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

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 an international operating agency.

Article 9

Associated Enterprises

Where:

a) an enterprise of one of the Contracting States 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 one of the Contracting States 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.

Article 10

Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 15 per cent:

a) in the case of Canada, of the gross amount of the dividend, and

b) in the case of Guyana, of the amount of the dividend actually distributed.

The provisions of this paragraph shall not affect the taxation of the company on the profits out of which the dividends are paid.

3. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the

company paying the dividends is a resident, through a permanent establishment situated therein, or perform in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

5. Nothing in this Convention shall be construed as preventing a Contracting State from imposing on the earnings of a company attributable to a permanent establishment in that State, tax in addition to the tax which would be chargeable on the earnings of a company which is a resident of that State, provided that any additional tax so imposed shall not exceed 15 per cent of the amount of such earnings which have not been subjected to such additional tax in previous taxation years. For the purpose of this provision, the term "earnings" means the profits attributable to a permanent establishment in a Contracting State in a year and previous years after deducting therefrom all taxes, other than the additional tax referred to herein, imposed on such profits by that State.

6. The term "dividends" as used in this Article:

a) in the case of Guyana includes any income which under the tax law of Guyana is treated as a distribution;

b) in the case of Canada includes any income which under the tax law of Canada is treated as a dividend.

Article 11

Interest

1. Interest arising in one of the Contracting States and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed,

a) in the case of Canada, 15 per cent, and

b) in the case of Guyana, 25 per cent

of the gross amount of the interest.

3. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of one of the Contracting States, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provision of Article 7 or Article 14, as the case may be, shall apply.

4. Notwithstanding the provisions of paragraph 2, interest derived from sources within a Contracting State shall be exempt from tax in that State if it is beneficially owned by the Government of the other Contracting State, or by an instrumentality of that other State, not subject to tax in that other Contracting State on its income.

5. The term "instrumentality" as used in this Article means any agency or entity created or organized by the Government of either Contracting State in order to carry out governmental functions.

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

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

8. In this Article, the term "interest" means income from Government securities, from bonds or debentures, whether or not secured by mortgage, or from any other form of indebtedness, as well as all other 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.

Article 12

Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

3. 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, copyright of literary, artistic or scientific work including cinematograph films and films or tapes for radio or television broadcasting, any patent, trademark, design or model, plan, secret formula or process or other like property or rights, or for the use of or the right to use industrial, commercial or scientific equipment, or for the use of or the right to use industrial, commercial or scientific information, or experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

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

Article 13

Management Fees

1. Management fees arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such management fees may also be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the recipient is the beneficial owner of the management fees the tax so charged shall not exceed 10 per cent of the gross amount of the management fees.
3. The term "management fees" as used in this Article means payments of any kind to any person, other than to an employee of the person making the payments, for, or in respect of, the provision of industrial or commercial advice, or management or technical services, or similar services or facilities, but it does not include payments for independent personal services mentioned in Article 14.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the management fees, being a resident of a Contracting State, carries on business in the other Contracting State in which the management fees arise through a permanent establishment situated therein, and the obligation in respect of which the management fees are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
5. Management fees shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the management fees, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the obligation to pay the management fees was incurred, and such management fees are borne by such permanent establishment, then such management fees shall be deemed to arise in the State in which the permanent establishment is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the management fees, having regard to the advice, services or use 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 14

Independent Personal Services

1. Income derived by a resident of a Contracting State in respect of independent personal services 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 those services. If he has or had 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 "independent personal services" includes independent scientific, literary, artistic, educational and 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 one of the Contracting States in respect of an employment shall be subjected to tax only in that Contracting 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 Contracting State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of one of the Contracting States in respect of an employment exercised in the other Contracting State shall be subjected to tax only in the first-mentioned Contracting State if the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in the tax year, and either

a) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Contracting State, and such remuneration is not deducted from the profits of a permanent establishment which the employer has in the other Contracting State; or

b) the remuneration earned in the other Contracting State in the calendar year concerned does not exceed two thousand five hundred Canadian dollars (\$2,500.00) or its equivalent in Guyana dollars.

3. 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 an employment, and as if references to employers were references to the company. Income from personal services performed by partners for the partnership shall be treated as income from independent personal services under Article 14.

4. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment performed aboard a ship or aircraft in international traffic may be taxed in the Contracting State in which the person operating the ship or aircraft is a resident.

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 or income derived from the furnishing by an enterprise of the services of such entertainers or athletes, may be taxed in the Contracting State in which these activities are exercised.

2. The provisions of paragraph 1 shall not apply if the visit of the entertainers or athletes to a Contracting State is supported wholly or substantially from public funds of the other Contracting State, a political subdivision or a local authority thereof.

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 Contracting State.

2. Pensions and annuities arising in a Contracting State and paid to a resident of the other Contracting State may also be taxed in the State in which they arise, and according to the law of that State.

3. Notwithstanding anything in this Convention:

a) pensions paid by Guyana to any individual in respect of services rendered to Guyana in the discharge of Governmental functions shall be taxed only in Guyana;

b) social security pensions and war veteran allowances received from one of the Contracting States by a resident of the other Contracting State shall not be taxable in that other State so long as they are not subject to tax in the first-mentioned Contracting State;

c) alimony and other similar payments arising in a Contracting State and paid to a resident of the other Contracting State who is subject to tax therein in respect thereof, shall be taxable only in that other State.

4. The term "annuities" as used in this Article means a stated sum paid periodically at stated times during life or during a specified number of years under an obligation to make payments in return for adequate and full consideration in money or money's worth.

5. The term "alimony" as used in this Article means any amount paid pursuant to a decree, order or judgment of a competent tribunal or pursuant to a written agreement, as allowance payable on a periodic basis for the maintenance of the recipient thereof, children of the marriage or both the recipient and children of the marriage.

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 an individual in respect of services rendered to that State or subdivision or authority 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 individual is a resident of that State who:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of rendering the services.

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

Article 19

Students and Trainees

Payments which a student, apprentice or business trainee who is, or was immediately before visiting a Contracting State, a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

IV. Method of Prevention of Double Taxation

Article 20

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 Guyana on profits, income or gains arising in Guyana 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 Guyana.

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

Subject to the provisions of the Law of Guyana regarding the allowance as a credit against Guyana tax of tax payable in a territory outside Guyana (which shall not affect the general principle hereof), the Canadian tax payable under the laws of Canada and in accordance with this Convention (excluding in the case of a dividend, tax payable on the profits or income of the company paying the dividend) whether by deduction from, or under a computation measured by reference to profits or income from sources within Canada shall be allowed as a credit against any Guyana tax computed by reference to the same profits or income by reference to which the Canadian tax is computed. Where such income is a dividend paid by a company which is a resident of Canada to a company which is a resident of Guyana and which controls directly or indirectly not less than 25 per cent of the voting power in the Canadian company, the credit shall take into account (in addition to any Canadian tax payable in respect of the dividend) the Canadian tax payable by the company in respect of the profits out of which such dividend is paid.

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

4. For the purpose of paragraph 1(a) tax payable in Guyana by a company which is a resident of Canada

a) in respect of profits attributable to a trade or business carried on by it in Guyana; or

b) in respect of dividends, interest or royalties received by it from a company which is a resident of Guyana, shall be deemed to include any amount which would have been payable as Guyana tax for any year but for an exemption from or reduction of, tax granted for that year or any part thereof under any of the following provisions, that is to say:

(i) Section 2(1) and (3) of the Income Tax (In Aid of Industry) Act Chapter 81:02 of 1973;

(ii) Section 91 of the Income Tax Act, Chapter 81:01 when exercised in pursuance of economic development objectives;

so far as they were in force on, and have not been modified since, the date of signature of this Convention, or have been modified only in minor respects so as not to affect their general character; and except to the extent that the said provisions have the effect of exempting or relieving a source of income for a period in excess of ten years;

(iii) any other provision which may subsequently be made granting an exemption or reduction of tax which is agreed by the competent authorities of the Contracting States to be of a substantially similar character, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general character.

Provided that any deduction from Canadian tax granted in accordance with the provisions of this paragraph in respect of dividends, interest or royalties shall not exceed an amount equal to 15 per cent of the gross amount thereof.

V. Special Provisions

Article 21

Non-Discrimination

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.
3. Nothing in this Article shall be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or

more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of a third State, are or may be subjected.

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

Article 22

Mutual Agreement Procedure

1. Where a resident of one of the Contracting States 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, notwithstanding the remedies provided by the laws of those States, present his case in writing to the competent authority of the Contracting State of which he is a resident.

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

4. The competent authorities of the Contracting States may communicate directly with each other for the purposes of reaching an agreement in the sense of the preceding paragraphs.

Article 23

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or

authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;

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

c) to supply information which would disclose any trade business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

Article 24

Diplomatic Agents and Consular Officers

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

2. Notwithstanding Article 4, an individual who is a member of a diplomatic mission, consular post or permanent mission of a Contracting State which is situated in the other Contracting State or in a third State shall be deemed for the purposes of the Convention to be a resident of the sending State if he is liable in the sending State to the same obligations in relation to tax on his total income as are residents of that sending State.

3. The Convention shall not apply to International Organizations, to organs or officials thereof and to persons who are members of a diplomatic mission, consular post or permanent mission of a third State, being present in a Contracting State and who are not liable in either Contracting State to the same obligations in relation to tax on their total income as are residents thereof.

Article 25

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:

a) by the laws of a Contracting State in the determination of the tax imposed by that State, or

b) by any other agreement entered into by a Contracting State.

2. Nothing in the Convention shall be construed as preventing Canada from imposing a tax on amounts included in the income of a resident of Canada 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.

3. This Convention shall not apply to any company, trust or partnership that is a resident of a Contracting State and is beneficially owned or controlled directly or indirectly by one or more persons who are not residents of that State, if the amount of the tax imposed on the income or capital of the company, trust or partnership by that State is substantially lower than the amount that would be imposed by that State if all of the shares of the capital stock of the company or all of the interests in the trust or partnership, as the case may be, were beneficially owned by one or more individuals who were residents of that State.

VI. Final Provisions

Article 26

Entry into Force

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Ottawa.

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

a) in Canada:

(i) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of January in the calendar year in which the exchange of instruments of ratification takes place; and

(ii) in respect of other Canadian tax for taxation years beginning on or after the first day of January in the calendar year in which the exchange of instruments of ratification takes place;

b) in Guyana:

(i) with respect to tax withheld at the source on amounts paid, credited or remitted to non-residents on or after the first day of January in the calendar year in which the exchange of instruments of ratification takes place; and

(ii) with respect to other Guyana tax for the year of income commencing the first day of January in the calendar year in which the exchange of instruments of ratification takes place.

3. The exchange of Notes between Canada and the United Kingdom dated July 7 and September 3, 1943 providing for the reciprocal exemption of persons resident in Canada and British Guyana from income tax of earnings derived from the operation of ships is terminated upon the entry into force of this Convention.

Article 27

Termination

1. This Convention shall continue in effect indefinitely but the Government of either Contracting State may, on or before June 30 in any calendar year after the year of the exchange of instruments of ratification, give to the Government of the other Contracting State a notice of termination in writing; in such event, the 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 the first day of January in the calendar year next following that in which the notice is given; and

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

b) in Guyana:

(i) with respect to tax withheld at the source on amounts paid, credited or remitted to non-residents on or after the first day of January in the calendar year next following that in which such notice is given; and

(ii) with respect to other Guyana tax for the year of income commencing the first day of January in the calendar year next following that in which such notice is given.

IN WITNESS WHEREOF the undersigned, duly authorized to that effect, have signed this Convention.

DONE in duplicate at Georgetown, this 15th day of October, 1985 in the English and French languages, each version being equally authentic.

John MacLachin

FOR THE GOVERNMENT OF CANADA

Donald Abrams

FOR THE GOVERNMENT OF THE COOPERATIVE REPUBLIC OF GUYANA