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Canada



CONVENTION

BETWEEN

THE GOVERNMENT OF THE UNITED ARAB EMIRATES

AND

THE GOVERNMENT OF CANADA

FOR THE AVOIDANCE OF DOUBLE TAXATION

AND THE PREVENTION OF FISCAL EVASION WITH

RESPECT TO TAXES ON INCOME AND ON CAPITAL

THE GOVERNMENT OF THE UNITED ARAB EMIRATES 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 on capital,

HAVE AGREED as follows:

I. SCOPE OF THE CONVENTION

ARTICLE 1

Persons Covered

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

ARTICLE 2

Taxes Covered

1. This Convention shall apply to taxes on income and on capital imposed on behalf of each Contracting State, irrespective of the manner in which they are levied.

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

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

(a) in the case of Canada, the taxes on income and on capital imposed by the Government of Canada under the *Income Tax Act*, (hereinafter referred to as "Canadian tax");

(b) in the case of the United Arab Emirates:

(i) the income tax; and

(ii) the corporation tax,

(hereinafter referred to as "U.A.E. tax").

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

II. DEFINITIONS

ARTICLE 3

General Definitions

1. For the purposes of this Convention, unless the context otherwise requires:

(a) the term "Canada", used in a geographical sense, means the territory of Canada, including:

(i) any area beyond the territorial sea of Canada that, in accordance with international law and the laws of Canada, is an area in respect of which Canada may exercise rights with respect to the seabed and subsoil and their natural resources;

(ii) the sea and airspace above every area referred to in clause (i);

(b) the term "United Arab Emirates" means the United Arab Emirates and, when used in a geographical sense, means the area in which the territory is under its sovereignty as well as the territorial sea, airspace and submarine areas over which the United Arab Emirates exercises, in conformity with international law and the laws of the United Arab Emirates, sovereign rights, including the mainland and islands under its jurisdiction in respect of any activity carried on in connection with the exploration for or the exploitation of the natural resources of the seabed and subsoil;

(c) the terms "a Contracting State" and "the other Contracting State" mean, as the context requires, Canada or the United Arab Emirates;

(d) the term "person" includes an individual, a trust, a company, a partnership and any other body of persons;

(e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(f) the term "competent authority" means:

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

(ii) in the case of the United Arab Emirates, the Minister of Finance and Industry or the Minister's authorized representative;

(g) the term "national" means:

(i) any individual possessing the nationality of a Contracting State according to the law of that State;

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

(h) 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;

(i) the term "international traffic" means any voyage of a ship or aircraft operated by an enterprise of a Contracting State to transport passengers or property except where the principal purpose of the voyage is to transport passengers or property between places within the other Contracting State.

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

ARTICLE 4

Resident

1. For the purposes of this Convention, the term "resident of a Contracting State" means:

(a) in the case of Canada, any person who, under the laws of that State, is liable to tax therein by reason of the person's domicile, residence, place of management, place of incorporation or any other criterion of a similar nature but does not include any person who is liable to tax in that State in respect only of income from sources in that State;

(b) in the case of the United Arab Emirates,

(i) an individual who is a national of the United Arab Emirates, provided that the individual has a substantial presence, permanent home or habitual abode in the United Arab Emirates and that individual's personal and

economic relations are closer to the United Arab Emirates than to any other State;

(ii) a company which is incorporated in the United Arab Emirates, provided such company can establish that:

(A) all of the shares of the company are beneficially owned by residents of the United Arab Emirates; or

(B) all or substantially all of the company's income is derived by the company from the active conduct of a trade or business, other than an investment business, in the United Arab Emirates and all or substantially all of the value of the company's property is attributable to property used in that trade or business.

2. For the purposes of paragraph 1, the term "resident of a Contracting State" shall include:

(a) the Government of that Contracting State or a political subdivision or local Government or local authority thereof; and

(b) any corporation, Central Bank, Abu Dhabi Investment Authority, fund, authority, foundation, commission, agency or other entity that was established under the law of that Contracting State and that is wholly-owned and controlled by the Government of that Contracting State or a political subdivision or local authority thereof, by any entity referred to in this subparagraph or by any combination thereof; and

(c) any entity established in that Contracting State all the capital of which has been provided by the Government of that Contracting State or a political subdivision or local authority thereof either alone or together with the governments of other states.

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

(a) the individual shall be deemed to be a resident only of the State in which the individual has a permanent home available; if the individual has a permanent home available in both States, the individual shall be deemed to be a resident only of the State with

which the individual's personal and economic relations are closer (centre of vital interests);

(b) if the State in which the individual's centre of vital interests is situated cannot be determined, or if there is not a permanent home available in either State, the individual shall be deemed to be a resident only of the State in which the individual has an habitual abode;

(c) if the individual has an habitual abode in both States or in neither of them, the individual shall be deemed to be a resident only of the State of which the individual is a national;

(d) if the individual is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

4. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the Contracting State of which it is a national.

ARTICLE 5

Permanent Establishment

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

2. The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop; and

(f) a mine, an oil or gas well, a quarry or any other place relating to the exploration for or the exploitation of natural resources.

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

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

(a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e) provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 6 applies – is acting on behalf of an enterprise and has, and habitually exercises in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly to the business of that enterprise, such agent shall not be considered an agent of an independent status within the meaning of this paragraph.

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

III. TAXATION OF INCOME

ARTICLE 6

Income from Immovable Property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

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

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

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

3. In the determination of the profits of a permanent establishment, there shall be allowed those deductible expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses, whether incurred in the Contracting State in which the permanent establishment is situated or elsewhere.

4. 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.

5. 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.

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

ARTICLE 8

Shipping and Air Transport

1. Profits 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 Article 7, profits derived by an enterprise of a Contracting State from a voyage of a ship or aircraft where the principal purpose of the voyage is to transport passengers or property between places in the other Contracting State may be taxed in that other State.

3. 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 the participation in a pool, a joint business or an international operating agency.

4. In this Article,

(a) the term "profits" includes:

(i) gross receipts and revenues derived directly from the operation of ships or aircraft in international traffic, and

(ii) interest that is incidental to the operation of ships or aircraft in international traffic;

(b) the term "operation of ships or aircraft in international traffic" by an enterprise, includes:

(i) the charter or rental of ships or aircraft,

(ii) the rental of containers and related equipment, and

(iii) the alienation of ships, aircraft, containers and related equipment,

by that enterprise provided that such charter, rental or alienation is incidental to the operation by that enterprise of ships or aircraft in international traffic.

ARTICLE 9

Associated Enterprises

1. Where

(a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

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

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State – and taxes accordingly – profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

3. A Contracting State shall not change the profits of an enterprise in the circumstances referred to in paragraph 1 after the expiry of the time limits provided in its domestic laws and, in any case, after five years from the end of the year in which the profits which would be subject to such change would, but for the conditions referred to in paragraph 1, have been attributed to that enterprise.

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

ARTICLE 10

Dividends

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

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

(a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividends;

(b) notwithstanding the provisions of subparagraph (a), 10 per cent of the gross amount of the dividends if they are paid by a non-resident owned investment corporation that is a resident of Canada to a company that is a resident of the United Arab Emirates and that holds directly or indirectly at least 10 per cent of the voting power of the company paying the dividends;

(c) 15 per cent of the gross amount of the dividends in all other cases.

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

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

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

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

ARTICLE 11

Interest

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

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to the Government of the other Contracting State including a political subdivision and a local authority thereof, the Central Bank of that other State or any financial institution wholly owned by that Government shall be exempt from tax in the first-mentioned State.

4. For the purposes of paragraph 3, the terms "the Central Bank" and "financial institution wholly owned by the Government" mean:

(a) in the case of Canada,

(i) the Bank of Canada;

(ii) Export Development Canada; and

(iii) such other financial institution the capital of which is wholly owned by the Government of Canada as is specified and agreed in letters exchanged between the competent authorities of the Contracting States;

(b) in the case of the United Arab Emirates,

(i) the Central Bank of the United Arab Emirates;

(ii) the Abu Dhabi Investment Authority; and

(iii) such other financial institution the capital of which is wholly owned by the Government of the United Arab Emirates as is specified and agreed in letters exchanged between the competent authorities of the Contracting States.

5. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as income which is subjected to the same taxation treatment as income from money lent by the laws of the State in which the income arises. However, the term "interest" does not include income dealt with in Article 8 or Article 10.

6. The provisions of paragraph 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such 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 the payer 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.

8. 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.

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 beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

3. Notwithstanding the provisions of paragraph 2,

(a) copyright royalties and other like payments in respect of the production or reproduction of any literary, dramatic, musical or other artistic work (but not including royalties in respect of motion picture films nor royalties in respect of works on film or videotape or other means of reproduction for use in connection with television broadcasting), and

(b) royalties for the use of, or the right to use, computer software or any patent or for information concerning industrial, commercial or scientific experience (but not including any such royalty in connection with a rental or franchise agreement),

arising in a Contracting State and paid to a resident of the other Contracting State who is the beneficial owner thereof 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 other intangible property, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience, and includes payments of any kind in respect of motion picture films and works on film, videotape or other means of reproduction for use in connection with television.

5. The provisions of paragraphs 2 and 3 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Royalties shall be deemed to arise in a Contracting State 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 the payer

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.

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

ARTICLE 13

Capital Gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has or had in the other Contracting State or of movable property pertaining to a fixed base that is or was available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such a fixed base may be taxed in that other State.

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

4. Gains derived by a resident of a Contracting State from the alienation of:

(a) shares, the value of which is derived principally from immovable property situated in that other State; or

(b) an interest in a partnership or trust, the value of which is derived principally from immovable property situated in that other State,

may be taxed in that other State.

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

6. The provisions of paragraph 5 shall not affect the right of either of the Contracting States to levy, according to its law, a tax on gains from the alienation of any property derived by an individual who is a resident of the other Contracting State and has been a resident of the first-mentioned Contracting State at any time during the five years immediately preceding the alienation of the property.

ARTICLE 14

Independent Personal Services

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

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

ARTICLE 15

Dependent Personal Services

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

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

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the calendar year concerned, and

(b) the remuneration is paid by, or on behalf of, a person who is not a resident of the other State, and such remuneration is not borne by a permanent establishment or a fixed base which the person has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft, operated in international traffic by an enterprise of a Contracting State, shall be taxable only in that State unless the remuneration is derived by a resident of the other Contracting State.

ARTICLE 16

Directors' Fees

Directors' fees and other similar payments derived by a resident of a Contracting State in that resident's capacity as a member of the board of directors or a similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

ARTICLE 17

Artistes and Sportspersons

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from that resident's personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in that individual's capacity as such accrues not to the entertainer or sportsperson personally but to another person, that income

may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

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

4. Notwithstanding the provisions of paragraphs 1 and 2, income derived from activities performed in a Contracting State by a resident of the other Contracting State:

(a) within the framework of a cultural exchange between the Contracting States, or

(b) in the context of a visit in the first-mentioned State of a non-profit organization of the other State, provided the visit is substantially supported by public funds,

shall be exempt from tax in the first-mentioned Contracting State.

ARTICLE 18

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.

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 laws of that State.

ARTICLE 19

Government Service

1. (a) Salaries, wages and similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority or a local government thereof to an individual in respect of services rendered to that State or subdivision or authority or

government in any other State shall be taxable only in the first-mentioned State.

(b) However, such salaries, wages and similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that Contracting State who:

(i) is a national of that Contracting State; or

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

2. The provisions of Articles 15, 16 and 17 shall apply to salaries, wages and similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority or a local government thereof.

ARTICLE 20

Students

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

ARTICLE 21

Income of Government and Institutions

1. Notwithstanding the provisions of Article 10, dividends paid by a company that is a resident of a Contracting State to a resident of the other Contracting State that is referred to in paragraph 2 of Article 4 and that is the beneficial owner of the dividends shall be taxable only in the other Contracting State provided that:

(a) the recipient, together with all other residents of the other Contracting State that are referred to in paragraph 2 of Article 4, neither own or control shares of the company representing more

than 25 per cent of the value of all of its issued and outstanding shares nor control directly or indirectly in any manner whatever more than 25 per cent of the votes in respect of the shares of the company; and

(b) the recipient has not received the dividends in the course of carrying on an industrial or commercial activity.

If the conditions set out in this paragraph are not met, the provisions of Article 10 shall apply.

2. Notwithstanding the provisions of Article 13, gains derived by a resident of a Contracting State that is referred to in paragraph 2 of Article 4 from the alienation of shares, the dividends on which would be exempt from taxation in the other Contracting State, shall be taxable only in the first-mentioned Contracting State.

ARTICLE 22

Other Income

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

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

IV. TAXATION OF CAPITAL

ARTICLE 23

Capital

1. Capital represented by immovable property owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other Contracting State.

2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other Contracting State.

3. Capital represented by ships and aircraft operated in international traffic by an enterprise of a Contracting State, and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in that Contracting State.

4. All other elements of capital of a resident of a Contracting State shall be taxable only in that Contracting State.

V. METHODS FOR PREVENTION OF DOUBLE TAXATION

ARTICLE 24

Elimination of Double Taxation

I. 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 Arab Emirates on profits, income or gains arising in the United Arab Emirates shall

be deducted from any Canadian tax payable in respect of such profits, income or gains;

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

2. In the case of the United Arab Emirates, double taxation shall be avoided in accordance with the provisions of the tax laws of the United Arab Emirates.

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

VI. SPECIAL PROVISIONS

ARTICLE 25

Non-Discrimination

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

2. The taxation on a permanent establishment which a resident 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 residents 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. Companies which are residents 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 companies which are residents of the first-mentioned State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of a third State, are or may be subjected.

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

ARTICLE 26

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for that person in taxation not in accordance with the provisions of this Convention, that person may, irrespective of the remedies provided by the domestic law of those States, address to the competent authority of the Contracting State of which that person is a resident an application in writing stating the grounds for claiming the revision of such taxation. To be admissible, the said application must be submitted within two years from the first notification of the action which gives rise to taxation not in accordance with the Convention.

2. The competent authority referred to in paragraph 1 shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention.

3. A Contracting State shall not, after the expiry of the time limits provided in its domestic laws and, in any case, after five years from the end of the taxable period to which the income concerned was attributed, increase the tax base of a resident of either of the Contracting States by including therein items of income which have also been charged to tax in the other Contracting State. This paragraph shall not apply in the case of fraud, wilful default or neglect.

4. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention.

5. The competent authorities of the Contracting States may consult together for the elimination of double taxation in cases not provided for in the

Convention and may communicate with each other directly for the purpose of applying the Convention.

ARTICLE 27

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this 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. 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) concerned with the assessment or collection of, the enforcement in respect of, or the determination of appeals in relation to, taxes. 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. Nothing in paragraph 1 shall 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).

3. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall endeavour to obtain the information to which the request relates in the same way as if its own taxation were involved notwithstanding the fact that the other State does not, at that time, need such information.

ARTICLE 28

Members of Diplomatic and Consular Missions

The provisions of this Convention shall not 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.

ARTICLE 29

Miscellaneous Rules

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

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

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

2. 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 with respect to a partnership, trust, or controlled foreign affiliate, in which that resident has an interest.

3. For purposes of paragraph 3 of Article XXII (Consultation) of the General Agreement on Trade in Services, the Contracting States agree that, notwithstanding that paragraph, any dispute between them as to whether a measure falls within the scope of this Convention may be brought before the Council for Trade in Services, as provided by that paragraph, only with the consent of both Contracting States. Any doubt as to the interpretation of this paragraph shall be resolved under paragraph 4 of Article 26 or, failing agreement under that procedure, pursuant to any other procedure agreed to by both Contracting States.

VII. FINAL PROVISIONS

ARTICLE 30

Entry into Force

1. This Convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible.

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

(a) 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 year in which the Convention enters into force; and

(b) in respect of other taxes, for taxation years beginning on or after the first day of January of the year in which the Convention enters into force.

ARTICLE 31

Termination

This Convention shall continue in effect indefinitely but either Contracting State may, on or before June 30 of any calendar year beginning after the expiration of a period of ten years after the year of the exchange of instruments of ratification, give to the other Contracting State a notice of termination in writing through diplomatic channels; in such event, the Convention shall cease to have effect:

(a) in Canada:

(i) in respect of tax withheld at the source on amounts paid or credited to non-residents, on or after the first day of January of the next following calendar year; and

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

(b) in the United Arab Emirates:

(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 of the next following calendar year; and

(ii) in respect of other taxes, for taxation years beginning on or after the first day of January of the next following calendar year.

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

DONE in duplicate at Abu Dhabi, this day of 9 June 2002 in the English, French and Arabic languages, each version being equally authentic.

PROTOCOL

At the signing of the Convention between the Government of Canada and the Government of the United Arab Emirates for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital (hereinafter referred to as "the Convention"), the undersigned have agreed upon the following provisions which form an integral part of the Convention.

1. With reference to Articles 6 and 13 of the Convention, in the case of Canada, income from the alienation of immovable property shall be subjected to taxation in accordance with the provisions of paragraph 1 of Article 6 of the Convention.

2. With reference to Article 8 of the Convention, it is understood that:

(a) the provisions of paragraph 1 of that Article apply notwithstanding the provisions of Article 7 of the Convention; and

(b) the provisions of that Article apply to the sale of passage tickets on behalf of other enterprises and to a hotel business, provided that the keeping of the hotel is for no other purpose than to provide transit passengers with night accommodation, the cost of such a service being included in the price of the passage ticket.

3. With reference to Article 10 of the Convention, it is understood that nothing contained therein affects the fiscal privileges available under the doctrine of sovereign immunity to the Government of a Contracting State or local Governments, and their agencies and institutions.

4. With reference to Article 12 of the Convention, it is understood that the term "royalties" does not include payments in respect of the operation of mines or quarries or the exploitation of natural resources.

5. With reference to Article 22 of the Convention, it is understood that nothing contained therein affects the rights of the United Arab Emirates to tax income related to oil and natural resources situated in the United Arab Emirates in accordance with its tax laws.

6. A company which is a resident of a Contracting State and which has earnings in that State which may be taxed in a Contracting State in accordance with the provisions of Articles 6, 7 or 13 of the Convention, remains subject to the branch tax on such earnings but the rate of such tax shall not exceed 5 per cent.

7. For the purpose of paragraph 6, the term "earnings" means the profits in a year and previous years after deducting therefrom:

(a) business losses attributable to such permanent establishments (including losses from the alienation of property forming part of the business property of such permanent establishments) in such year and previous years,

(b) all taxes chargeable in that Contracting State on such profits, other than the additional tax referred to herein,

(c) the profits reinvested in that Contracting State, provided that where that Contracting State is Canada, the amount of such deduction shall be determined in accordance with the existing provisions of the law of Canada regarding the computation of the allowance in respect of investment in property in Canada, and any subsequent modification of those provisions which shall not affect the general principle hereof, and

(d) five hundred thousand Canadian dollars ($500,000) or its equivalent in United Arab Emirates currency, less any amount deducted

(i) by the company, or

(ii) by a person related thereto from the same or a similar business as that carried on by the company under this subparagraph (d);

for the purposes of this subparagraph (d) a company is related to another company if one company directly or indirectly controls the other, or both companies are directly or indirectly controlled by the same person or persons, or if the two companies deal with each other not at arm's length.

8. Where at any time an individual is treated for the purposes of taxation in Canada as having alienated a property and is taxed in Canada by reason thereof, that individual may elect in the individual's annual return of income for the year of such alienation to be liable to tax in the United Arab Emirates in that year as if the individual had, immediately before that time, sold and repurchased such property for an amount equal to its fair market value at that time.

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

DONE in duplicate at , this day of 200_, in the English, French and Arabic languages, each version being equally authentic.