

AGREEMENT BETWEEN CANADA AND THE GOVERNMENT OF BARBADOS DESIRING TO CONCLUDE
AN AGREEMENT FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL.

Arrangement of Articles

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Income Tax

AGREEMENT BETWEEN CANADA AND BARBADOS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Government of Canada and the Government of Barbados desiring to conclude on Agreement 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:

ARTICLE I

Personal Scope

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

ARTICLE II

Taxes Covered

1. This Agreement 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, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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

(a) in the case of Canada:

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

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- (b) in the case of Barbados:
- (i) the income tax;
 - (ii) the corporation tax;
 - (iii) the petroleum winning operations tax; and
 - (iv) the employment levy
- (hereafter referred to as "Barbados tax").

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

ARTICLE III

General Definitions

1. In this Agreement, unless the context otherwise requires:
- (a) (i) the term "Canada" used in a geographical sense, means the territory of Canada, including any area outside the territorial waters of Canada which under the laws of Canada is an area within which the rights of Canada with respect to the sea-bed and sub-soil and their natural resources may be exercised;
 - (ii) the term "Barbados" means the island of Barbados and the territorial waters thereof, including any area outside such territorial waters which in accordance with international law and the laws of Barbados is an area within which the rights of Barbados with respect to the sea-bed and sub-soil and their natural resources may be exercised;
 - (b) the terms "a Contracting State" and "the other Contracting State" mean Canada or Barbados, as the context requires;
 - (c) the term "person" includes an individual, an estate, a trust, a company, a partnership and any other body of persons;
 - (d) 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;

- (e) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (f) the term "competent authority" means:
 - (i) in the case of Canada, the Minister of National Revenue or his authorized representative,
 - (ii) in the case of Barbados, the Minister of Finance and Planning or his authorized representative;
- (g) the term "tax" means Canadian tax or Barbados tax, as the context requires;
- (h) the term "national" means:
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) any legal person, partnership and association deriving its status as such from the law in force in a Contracting State;
- (i) the term "international traffic" includes traffic between places in one country in the course of a voyage which extends over more than one country;
- (j) the term "member country of the Caribbean Common Market" means Antigua, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts-Nevis-Anguilla, St. Lucia, St. Vincent and Trinidad and Tobago and such other countries as may be admitted to membership of the Common Market and as are specified and agreed in letters exchanged between the Contracting States.

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

ARTICLE IV

Fiscal Domicile

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, a place of management or any other criterion of a similar nature. The terms "resident of Canada" and "resident of Barbados" shall be construed accordingly.

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2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined 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 closest (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, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then 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 Agreement to such person.

ARTICLE V

Permanent Establishment

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

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

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) premises used as a sales outlet;

- (g) a warehouse, in relation to a person providing storage facilities for others;
- (h) a mine, quarry or other place of extraction of natural resources;
- (i) a building site or construction or assembly project which exists for more than six months;
- (j) the furnishing of services including consulting services by an enterprise through employees or other personnel, where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than three months in any twelve month period.

3. The term "permanent establishment" shall not be deemed to include:

- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research, or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. A person – other than an agent of an independent status to whom paragraph 7 applies – acting in a Contracting State on behalf of an enterprise of the other Contracting State shall be deemed to be a permanent establishment in the first-mentioned State:

- (a) if he has, and habitually exercises in that 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 State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise.

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5. An insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other State, if it collects premiums in the territory of that State or insures risks situated therein through an employee or through a representative who is not an agent of independent status within the meaning of paragraph 7.

6. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on supervisory activities in that other State for more than six months in connection with a construction, installation, dredging or assembly project in that other State.

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

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

ARTICLE VI

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 Agreement, the term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture, and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

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

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

ARTICLE VII

Business Profits

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

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall be attributed to that permanent establishment 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 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 insofar as such expenses are reasonably allocable to the permanent establishment including executive and general administrative expenses, so deductible and allocable, whether incurred in the 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 a permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

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

ARTICLE VIII

Shipping and Air Transport

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

2. Notwithstanding the provisions of paragraph 1 or Article VII, 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 in an international operating agency.

ARTICLE IX

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 profits on which an enterprise of a Contracting State has been charged to tax in that State are also included in the profits of an enterprise of the other Contracting State and taxed accordingly, and the profits so included are profits which would have accrued to that enterprise of the other State if the conditions made between the enterprises had been those which would have been made between independent enterprises, then the first-mentioned State shall make an appropriate adjustment to the amount of tax charged on those profits in the first-mentioned State. In determining such an adjustment due regard shall be had to the other provisions of this Agreement in relation to the nature of the income.

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 national 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 have accrued to an enterprise of that State. This paragraph shall not apply in the case of fraud, wilful default or neglect.

ARTICLE X

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. 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 the first-mentioned State, and according to the law of that State; but where a resident of the other Contracting State is the beneficial owner of the dividends, the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

3. In this Article, the term "dividends" in the case of Canada includes any income which under the tax law of Canada is treated as a dividend and, in the case of Barbados includes any item which under the law of Barbados is treated as a distribution of a company.

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4. The provisions of paragraph 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, carries on in the other Contracting State of which the company paying the dividends is a resident, a business through a permanent establishment situated therein, and the holding by virtue of which the dividends are paid is effectively connected with that permanent establishment. In such a case, the dividends that are attributable to that permanent establishment shall be treated as if they were business profits, and the provisions of Article VII shall apply.

5. Where a company is a resident of only one Contracting State, the other Contracting State may not impose any tax on the dividends paid by the company to persons who are not residents of that other State, or subject the company 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. The provisions of this paragraph shall not prevent a Contracting State from taxing dividends beneficially owned by a person who is not a resident of that State if such dividends relate to a holding which is effectively connected with a permanent establishment of that person in that State.

6. Nothing in this Agreement shall be construed so as to prevent Canada from imposing on the earnings of a company attributable to a permanent establishment in Canada, tax in addition to the tax which would be chargeable on the earnings of a company which is incorporated in Canada, 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 Canada in a year and previous years after deducting therefrom all taxes, other than the additional tax referred to herein, imposed on such profits in Canada.

ARTICLE XI

Interest

1. Where interest is derived from sources within a Contracting State by a resident of the other Contracting State who is subject to tax in that other State in respect thereof, the rate of tax imposed thereon in the first-mentioned State shall not exceed 15 per cent of the gross amount of the interest.

2. 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 X.

3. The provisions of paragraph 1 shall not apply if the recipient of the interest, being a resident of a Contracting State, carries on in the other Contracting State in which the interest arises a business through a permanent establishment situated therein, and the indebtedness in respect of which the interest is paid is effectively connected with that permanent establishment. In such a case, the interest that is attributable to that permanent establishment shall be treated as if it were business profits, and the provisions of Article VII shall apply.

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

5. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest, having regard to the indebtedness on which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

6. Notwithstanding the provisions of paragraph 1,

- (a) interest derived from sources within a Contracting State and paid in respect of a bond, debenture or other similar obligation of the government of that Contracting State or of a political subdivision or local authority thereof shall, provided that the interest is beneficially owned by a resident of the other Contracting State, be taxable only in that other State;

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- (b) interest derived from sources within Barbados and paid to a resident of Canada shall be taxable only in Canada if it is paid in respect of a loan made, or a credit extended by the Export Development Corporation.

ARTICLE XII

Royalties

1. Where royalties are derived from sources within a Contracting State by a resident of the other Contracting State who is subject to tax in that other State in respect thereof, the rate of tax imposed thereon in the first-mentioned State shall not exceed 10 per cent of the gross amount of such royalties.

2. Notwithstanding the provisions of paragraph 1, copyright royalties and other like payments in respect of the production or reproduction of any literary, dramatic, musical or artistic work (but not including royalties in respect of motion picture films and works on films or videotapes for use in connection with television) derived from sources within a Contracting State by a resident of the other Contracting State who is subject to tax in that other State in respect thereof shall be taxable only in that other State.

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

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the royalties, being a resident of a Contracting State, carries on in the other Contracting State in which the royalties arise a business through a permanent establishment situated therein, and the right of property in respect of which the royalties are paid is effectively connected with that permanent establishment. The royalties that are attributable to that permanent establishment shall be treated as if they were business profits, and in such a case, the provisions of Article VII shall apply.

5. Royalties shall be deemed to be derived from sources within a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a

Contracting State a permanent establishment in connection with which the obligation to pay the royalties was incurred, and those royalties are borne by that permanent establishment, then such royalties shall be deemed to be derived from sources within the Contracting State in which the permanent establishment is situated.

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

ARTICLE XIII

Management Fees

1. Where a management fee is derived from sources within a Contracting State by a resident of the other Contracting State who is subject to tax in that other State in respect thereof, the rate of tax imposed thereon in the first-mentioned State shall not exceed the lesser of

- (a) 15 per cent of the gross amount of the management fee; and
- (b) the lowest rate of Barbados tax that may be imposed under any agreement concluded or modified after the date of signature of this Agreement on a management fee of the same kind paid in similar circumstances to a resident of any other country which is not a member country of the Caribbean Common Market.

2. In this Article the term "management fee" means payments of any kind to a 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, technical or administrative services, or similar services or facilities, but it does not include payments for professional services mentioned in Article XV.

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3. The provisions of paragraph 1 shall not apply if the beneficial owner of the management fee, being a resident of a Contracting State, has in the other Contracting State in which the management fee arises a permanent establishment in connection with which the obligation to pay the management fee is effectively connected. In such a case, the management fee that is attributable to that permanent establishment shall be treated as if it were business profits, and the provisions of Article VII shall apply.

4. A management fee shall be deemed to be derived from sources within 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 fee, 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 fee was incurred, and the management fee is borne by that permanent establishment, then the management fee shall be deemed to be derived from sources within that Contracting State.

5. Where, owing to a special relationship between the payer and the beneficial owner of the management fee or between both of them and some other person, the amount of the management fee paid, having regard to the advice, services or use 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 that case the excess part of the payment shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE XIV

Gains from the Alienation of Property

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

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) may be taxed in the other State. However, gains from the alienation of ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which such property is taxable according to paragraph 3 of Article XXIV.

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- 3.(a) Gains from the alienation of shares of a company, the property of which consists principally of immovable property situated in a Contracting State, may be taxed in that State.
- (b) Gains from the alienation of an interest in a partnership or a trust, the property of which consists principally of immovable property situated in a Contracting State, may be taxed in that State.
4. Gains from the alienation of any property, other than those mentioned in paragraphs 1, 2 and 3 may be taxed only in the Contracting State of which the alienator is a resident.
5. The provisions of paragraph 4 shall not affect the right of a Contracting State to levy, according to its domestic 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 who
- (a) possesses the nationality of the first-mentioned State or was resident therein for ten years or more prior to the alienation of the property, and
- (b) was resident in the first-mentioned State at anytime during the five years immediately preceding the alienation of the property.

ARTICLE XV

Professional Services

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities or a similar character may be subject to tax in the other Contracting State, but only to the extent that the income is attributable to his services in that other State. In determining the income attributable to such services, there shall be allowed as deductions all expenses which would be deductible under the law of that State insofar as such expenses are reasonably allocable to the performance of those services including executive and general administrative expenses, so deductible and allocable, whether incurred in the Contracting State in which the services are performed or elsewhere.

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

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ARTICLE XVI

Dependent Personal Services

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

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

- (a) if the remuneration earned in the other Contracting State in the calendar year concerned does not exceed five thousand Canadian dollars (\$5,000) or its equivalent in Barbados currency or such other amounts as may be specified and agreed in letters exchanged between the competent authorities of the Contracting States; or
- (b) if
 - (i) the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned, and
 - (ii) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
 - (iii) such remuneration is not borne by a permanent establishment which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration 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.

ARTICLE XVII

Directors' Fees

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

ARTICLE XVIII

Artistes and Athletes

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

2. Where income in respect of personal activities of an entertainer or athlete accrues not to that entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles VII, XV and XVI, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply

- (a) to income derived from activities performed in a Contracting State by entertainers or athletes if the visit to that Contracting State is substantially supported by public funds of the other Contracting State, including any political subdivision, local authority or statutory body thereof;
- (b) to a non-profit organization no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof; or
- (c) to an entertainer or athlete in respect of services provided to an organization referred to in subparagraph (b).

ARTICLE XIX

Pensions and Annuities

1. Any pension derived from sources within a Contracting State by a resident of the other Contracting State may be taxed in the State in which it arises and according to the law of that State. However, in the case of periodic pension payments, the tax so charged shall not exceed the lesser of

- (a) 15 per cent of the gross amount of such payments, and
- (b) the rate determined by reference to the amount of tax that the recipient of such payments would otherwise be required to pay for the year on the total amount of such payments received by him in the year, if he were a resident of the Contracting State in which the payments arise.

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2. Annuities derived from sources within a Contracting State by a resident of the other Contracting State may be taxed in the first-mentioned State; but the tax so charged shall not exceed 15 per cent of the gross amount of the payment. However, this limitation does not apply to a lump-sum payment arising on the surrender, cancellation, redemption, sale or other alienation of an annuity, or to a payment of any kind under an income-averaging annuity contract.

3. Notwithstanding anything in this Agreement:

- (a) pensions and allowances received from Canada under the Pension Act, the Civilian War Pensions and Allowances Act or the War Veterans Allowances Act and compensation received under regulations made under section 7 of the Aeronautics Act shall not be taxable in Barbados so long as they are not subject to Canadian tax;
- (b) pensions and allowances received from Barbados under the National Insurance and Social Security Act, Cap. 47 shall not be taxable in Canada so long as they are not subject to Barbados tax.

4. In this Article, the term "annuities" means stated sums payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

ARTICLE XX

Alimony

Any alimony or similar payment derived from sources within a Contracting State by a resident of the other Contracting State who is subject to tax in that other State in respect thereof shall be taxable only in that other State.

ARTICLE XXI

Government Service

- 1.(a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to any individual in respect of services rendered to that State or political subdivision or local authority thereof shall be taxable only in that State.

- (b) However, such remuneration shall be taxable only in the Contracting State of which the recipient is a resident if the services are rendered in that State and the recipient did not become a resident of that State solely for the purpose of performing the services.

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

ARTICLE XXII

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 his education or training, receives for the purpose of his maintenance, education or training, shall not be taxed in that first-mentioned State, provided that such payments are made to him from sources outside that State.

ARTICLE XXIII

Income not Expressly Mentioned

1. Subject to the provisions of paragraphs 2 and 3, items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Agreement shall be taxable only in that Contracting State.

2. However, if such income is derived by a resident of a Contracting State from sources within 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.

3. Where income from an estate or trust is derived from sources within Canada by a resident of Barbados who is subject to Barbados tax in respect thereof, the tax charged in Canada shall not exceed 15 per cent of the gross amount of the income.

ARTICLE XXIV

Taxation of Capital

1. Capital represented by immovable property may be taxed in the Contracting State in which such property is situated.
2. Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise may be taxed in the Contracting State in which the permanent establishment is situated.
3. Ships and aircraft operated by an enterprise of a Contracting State in international traffic and movable property pertaining to the operation of such ships and aircraft, shall be taxable only in that State.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

ARTICLE XXV

Method for Prevention 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 Barbados on profits, income or gains derived from sources within Barbados 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 Barbados.
2. In the case of Barbados, double taxation shall be avoided as follows:
 - (a) Subject to the existing provisions of the law of Barbados regarding the allowance as a credit against Barbados tax of tax paid in a territory

outside Barbados and to any subsequent modification of those provisions – which shall not affect the general principle hereof – tax payable in Canada on profits, income or gains derived from sources within Canada shall be deducted from any Barbados tax payable in respect of such profits, income or gains;

- (b) Subject to the existing provisions of the law of Barbados regarding the allowance as a credit against Barbados tax of tax payable in a territory outside Barbados and to any subsequent modification of those provisions – which shall not affect the general principle hereof – where a company which is a resident of Canada pays a dividend to a company resident in Barbados which controls directly or indirectly at least 10 per cent of the voting power in the first-mentioned company, the credit shall take into account the tax payable in Canada by that first-mentioned 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 Agreement shall be deemed to be derived from sources within that other State.

4. For the purposes of paragraph 1 (a) tax payable in Barbados by a resident of Canada on profits attributable to a business carried on in Barbados or on any dividends, interest and royalties received from a company which is a resident of Barbados shall include any amount which would have been payable as Barbados tax for any year, but for an exemption from, or a reduction of, tax granted for that year or any part thereof under

- (a) any of the following provisions, that is to say:
- (i) sections 14(2), 15(2), 19(2) and 20 of the Pioneer Industries Act, Cap. 83;
 - (ii) sections 10, 15(2) and 16(1) of the Industrial Development (Export Industries) Act, Cap. 74;
 - (iii) sections 12, 14(2), 17(2) and 18(1) of the Industrial Incentives Act, Cap. 75;
 - (iv) sections 12, 14(2) and 15(1) of the Industrial Incentives (Factory Construction) Act, Cap. 76;
 - (v) sections 3 and 5 of the Hotel Aids Act, Cap. 72;
 - (vi) sections 21 and 46 of the Income Tax Act, Cap. 73;
 - (vii) sections 12 and 18(1) of the Fiscal Incentives Act, Cap 71A;

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so far as they were in force on, and have not been modified since, the date when this Agreement was signed, or have been modified only in minor respects so as not to affect their general character; or

- (b) any other provision which may subsequently be made, granting an exemption which is agreed by the competent authorities of Canada and Barbados 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:

- (i) that relief from Canadian tax shall not be given by virtue of this paragraph in respect of income from any source if the income arises in a period starting more than ten years after the exemption from, or reduction of, Barbados tax was first granted in respect of that source;
- (ii) that where the relief is a relief accorded by the Industrial Development (Export Industries) Act, Cap. 74, it shall be taken into account for the purposes of this Article if, and only if, the company qualifying for the relief could have been declared to be a company either:
 - (aa) which was engaging in a pioneer industry under the provisions of section 3 of the Pioneer Industries Act, Cap. 83;
 - (bb) which was an approved enterprise under the provisions of section 4 of the Industrial Incentives Act, Cap. 75.

ARTICLE XXVI

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 Agreement.

ARTICLE XXVII

Mutual Agreement Procedure

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

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

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3. A Contracting State shall not, after the expiry of the time limits provided in its national laws and, in any case, after five years from the end of the taxable period in which the income concerned has accrued, increase the tax base of a resident of either Contracting State 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 this Agreement. In particular, the competent authorities of the Contracting States may consult together to endeavour to agree:

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

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

ARTICLE XXVIII

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Agreement and of the domestic laws of the Contracting States concerning taxes covered by this Agreement insofar as the taxation thereunder is in accordance with this Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment or collection of the taxes which are the subject of this Agreement.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States 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 particulars which are 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 XXIX

Diplomatic and Consular Officials

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

2. Notwithstanding Article IV of this Agreement, an individual who is a member of a diplomatic, consular 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 this Agreement 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 world income as are residents of that sending State.

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

ARTICLE XXX

Miscellaneous Rules

1. The provisions of this Agreement shall not be construed so as to restrict in any manner any exclusion, exemption, deduction, credit, or other allowance now or hereafter accorded

- (a) by the laws of one of the Contracting States in the determination of the tax imposed by that Contracting State, or
- (b) by any other agreement between the Contracting States.

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2. Nothing in this Agreement shall be construed so as to prevent Canada from imposing its tax on amounts included in the income of a resident of Canada according to section 91 of the Canadian Income Tax Act.

3. This Agreement shall not apply to companies entitled to any special tax benefit under the Barbados International Business Companies (Exemption from Income Tax) Act, Cap. 77 or to companies entitled to any special tax benefit under any similar law enacted by Barbados in addition to or in place of that law.

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

ARTICLE XXXI

Entry into Force

Each of the Contracting States shall take all measures necessary to give this Agreement the force of law within its jurisdiction and each shall notify the other of the completion of such measures. This Agreement shall enter into force on the date on which the later notification is made and shall thereupon have effect:

(a) in Canada:

- (i) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after 1st January, 1976; and
- (ii) in respect of other Canadian tax for any taxation years beginning on or after 1st January, 1976;

(b) in Barbados:

- (i) in respect of income tax and corporation tax, for any year of assessment beginning on or after 1st January, 1977;
- (ii) in respect of the petroleum winning operations tax, for any accounting period beginning on or after 1st January, 1976; and
- (iii) in respect of the employment levy, for any year of assessment beginning on or after 1st January 1979.

ARTICLE XXXII

Termination

This Agreement shall continue in effect indefinitely but either Contracting State may, on or before June 30 in any calendar year after the year 1982, give

notice of termination to the other Contracting State and in such event this Agreement shall cease to have effect:

(a) in Canada:

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

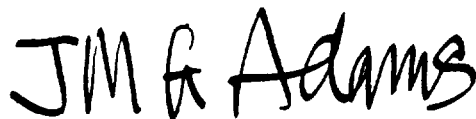
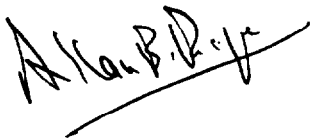
- (i) in respect of income tax, corporation tax and the employment levy for any year of assessment beginning on or after 1st January in the second calendar year next following that in which such notice is given; and
- (ii) in respect of the petroleum winning operations tax, for any accounting period beginning on or after 1st January in the calendar year next following that in which such notice is given.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Agreement.

DONE in duplicate at Bridgetown, Barbados, this 22nd day of January, 1980.

in the English and French languages, each version being equally authentic.

FOR THE GOVERNMENT OF CANADA: FOR THE GOVERNMENT OF BARBADOS:



THE LAWS OF BARBADOS

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