

AGREEMENT BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT
OF THE RUSSIAN FEDERATION 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 THE RUSSIAN
FEDERATION,

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,

HAVE AGREED AS FOLLOWS:

ARTICLE 1

Personal Scope

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

ARTICLE 2

Taxes Covered

1. This Agreement shall apply to the following taxes on income and on capital, irrespective
of the manner in which they are levied:

- (a) in the case of Canada, the taxes imposed by the Government of Canada
under the *Income Tax Act*, (hereinafter referred to as "Canadian tax");
- (b) in the case of the Russian Federation, the taxes imposed under the following Acts:
 - (i) "Tax on profits of enterprises and organisations";
 - (ii) "Income tax on individuals";

- (iii) "Tax on capital of enterprises"; and
- (iv) "Tax on capital of individuals";

including taxes of a similar nature levied by state authorities of the Russian Federation, (hereinafter referred to as "Russian tax").

2. The Agreement shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Agreement in addition to, or in place of, the taxes referred to in paragraph 1. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws.

ARTICLE 3

General Definitions

1. In this Agreement, 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 seas of Canada which, in accordance with international law and the laws of Canada, is an area within which Canada may exercise rights with respect to the seabed and subsoil and their natural resources;
 - (ii) the seas and airspace above every area referred to in subparagraph (i) in respect of any activity carried on in connection with the exploration for or the exploitation of the natural resources referred to therein;
 - (b) the term "Russian Federation - Russia", used in a geographical sense, means its territory, including its internal bodies of water, territorial waters in the sea and the air space above them, as well as the continental shelf and the exclusive economic zone, where the Russian Federation has sovereign rights and exercises jurisdiction as defined by federal law and the rules of international law. The names "Russian Federation" and "Russia" are synonymous;
 - (c) the terms "a Contracting State" and "the other Contracting State" mean, as the context requires, Canada or the Russian Federation;
 - (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 his authorized representative;
 - (ii) in the case of the Russian Federation, the Ministry of Finance or its authorized representative;
 - (g) the term "international traffic" means any transport by a ship or aircraft except when the ship or aircraft is operated solely between places in a Contracting State.

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

ARTICLE 4

Resident

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

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

(a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);

(b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;

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

(d) if each State considers him as its citizen or if neither State considers him as its citizen, 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 company is a resident of both Contracting States, then its status shall be determined as follows:

- (a) it shall be deemed to be a resident of the State under the laws of which it was created;
- (b) if it was created under the laws of neither of the States, it shall be deemed to be a resident of the State in which its place of effective management is situated.

ARTICLE 5

Permanent Establishment

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of a resident of a Contracting State is wholly or partly carried on in the other Contracting State.
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" in respect of a resident of a Contracting State 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 resident;
 - (b) the maintenance of a stock of goods or merchandise belonging to the resident solely for the purpose of storage, display or delivery;
 - (c) the maintenance of a stock of goods or merchandise belonging to the resident solely for the purpose of processing by another person;

- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the resident;
- (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the resident, 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 a resident of a Contracting State and has, and habitually exercises, in the other Contracting State an authority to conclude contracts in the name of the resident, that resident shall be deemed to have a permanent establishment in that other Contracting State in respect of any activities which that person undertakes for the resident unless the activities of such person are limited to those mentioned in paragraph 4.

6. A resident 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, provided that such persons are acting in the ordinary course of their business.

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.

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 Agreement, the term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources.

3. For the purposes of the Agreement, ships and aircraft shall not be regarded as immovable property.
4. 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 income from the alienation of such property.
5. The provisions of paragraphs 1 and 4 shall also apply to the income from immovable property used in carrying on a business or in the performance of independent personal services.

ARTICLE 7

Business Profits

1. The business profits of a resident of a Contracting State shall be taxable only in that State unless the resident carries on business in the other Contracting State through a permanent establishment situated therein. If the resident carries on or has carried on business as aforesaid, the business profits of the resident 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 a resident 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 business profits which it might be expected to make if it were a distinct and separate person engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the resident and with other persons.
3. In the determination of the business 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 State in which the permanent establishment is situated or elsewhere.
4. No business profits shall be attributed to a permanent establishment of a person by reason of the mere purchase by that permanent establishment of goods or merchandise for the person.
5. For the purposes of the preceding paragraphs, the business 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 business 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.

ARTICLE 8

Income or profits from International Traffic

1. Income or profits derived by a resident of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.
2. For the purpose of this Article, the term "income or profits" includes income or profits from the charter or rental of ships or aircraft and from the rental or maintenance of containers and related equipment derived by a resident of a Contracting State, provided that such charter, rental or maintenance is incidental to the operation by that resident of ships or aircraft in international traffic.
3. The provisions of paragraphs 1 and 2 shall also apply to income or profits referred to in those paragraphs derived by a resident of a Contracting State from its participation in a pool, a joint business or an international operating agency.
4. Nothing in this Agreement shall prevent a Contracting State from taxing the income or profits derived by a resident of the other Contracting State from the transportation of passengers or goods between places in the first-mentioned State.

ARTICLE 9

Adjustments to Income

1. Where:
 - (a) a resident of a Contracting State participates directly or indirectly in the management, control or capital of a resident of the other Contracting State, or
 - (b) the same persons participate directly or indirectly in the management, control or capital of a resident of a Contracting State and a resident of the other Contracting State,

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

2. Where a Contracting State includes in the income of a resident of that State - and taxes accordingly - income on which a resident of the other Contracting State has been charged to tax in that other State and the income so included is income which would have accrued to the first-mentioned person if the conditions made between the two persons had been those which would have been made between independent persons, then that other State shall make an appropriate

adjustment to the amount of tax charged therein on that income. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

3. A Contracting State shall not change the income of a person in the circumstances referred to in paragraph 1 after five years from the end of the year in which the income which would be subject to such change would have accrued to that person.

4. The provisions of paragraphs 2 and 3 shall not apply in the case of fraud or wilful default related to the amount of income received or expenses claimed.

ARTICLE 10

Dividends

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

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

(a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company which owns at least 10 per cent of the voting stock (or in the case of Russia, if there is no voting stock, at least 10 per cent of the statutory capital) of the company paying the dividends; and

(b) 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 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 1 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.

6. Nothing in this Agreement shall prevent:

(a) Canada from levying, in addition to the tax on a company which is a resident of Canada, a tax on the earnings of a permanent establishment of a company which is a resident of the Russian Federation but the rate of such tax shall not exceed 10 per cent of such earnings;

(b) the Russian Federation from taxing the remittance of earnings by a permanent establishment situated in the Russian Federation of a company which is a resident of Canada but the rate of tax shall not exceed 10 per cent of such remittances.

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 recipient is the beneficial owner of the interest 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 a resident of the other Contracting State who is the beneficial owner thereof shall be taxable only in that other State if it is paid:

(a) to the Central Bank of that other State;

(b) to a resident of that other State in respect of indebtedness of the first-mentioned State or of its state authorities, including local authorities thereof;

(c) in respect of a loan made, guaranteed or insured, or a credit extended, guaranteed or insured by an organisation created and wholly owned by the Government of a Contracting State for the purpose of facilitating export; it is understood that, for the purposes of this provision, the Export Development Corporation created under the laws of Canada meets these requirements and that any organisation wholly owned by, and

created under the laws of, the Government of the Russian Federation with similar mandate and functions shall, from the date mentioned in an exchange of letters between the competent authorities of the Contracting States, also be considered to meet the requirements of this provision.

4. 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 10.

5. 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.

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

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

ARTICLE 12

Royalties

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

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

3. 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);

(b) royalties for the use of, or the right to use, computer software; and

(c) where the payer and the beneficial owner of the royalties are not related persons, royalties for the use of, or the right to use, any patent or any information concerning industrial, commercial or scientific experience (but not including any such information provided under 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 or its state authorities, including local authorities thereof or, a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

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 Agreement.

ARTICLE 13

Gains from the Alienation of Property

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 Contracting State.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment of a resident of a Contracting State in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing 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 a resident of a Contracting State or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the State of which the alienator is a resident.
4. Gains derived by a resident of a Contracting State from the alienation of a share of a company which is a resident of the other Contracting State and of which the first-mentioned resident owns at least 25 per cent of the value of the capital stock, or of an interest in a partnership or trust established under the law of that other State and of which the first-mentioned resident's total interest was at least 25 per cent of the value of all such interests, may be taxed in that other State if at least 50 per cent of the value of the share or interest, as the case may be, is attributed, directly or indirectly, to immovable property situated 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 a Contracting State 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 State at any time during the six years immediately preceding the alienation of the property.

ARTICLE 14

Income from 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 he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he 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

Income from 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 from the day of his arrival in the other State, and
 - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
 - (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article,
 - (a) remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic by a resident of a Contracting State, shall be taxable only in that State unless the remuneration is derived by a resident of the other Contracting State;

(b) remuneration derived by a resident of a Contracting State in respect of an employment connected with a place of business in the other Contracting State which does not constitute a permanent establishment under the provisions of paragraph 3 of Article 5 shall be taxable only in the first-mentioned State.

ARTICLE 16

Directors' Fees

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors 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

Income of Artistes and Sportsmen

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 sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.
3. Notwithstanding the provisions of paragraphs 1 and 2, income derived by an artiste or a sportsman in respect of his personal activities as such shall be exempt from tax in the Contracting State in which his activities are exercised if his activities are exercised in accordance with an exchange program between the Governments of the Contracting States or between their state authorities, including local authorities thereof. Such exemption shall apply only if the competent authority of the State in which the artiste or the sportsman is a resident confirms to the competent authority of the other Contracting State that the performance of the artiste or the sportsman is in accordance with the exchange program.

ARTICLE 18

Pensions and Similar Payments

Pensions and other similar payments of any kind arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in the first mentioned State.

ARTICLE 19

Income from Government Service

1. Remuneration, other than a pension, paid by a Contracting State or its state authorities, including local authorities thereof, to an individual in respect of services rendered to that State, state authorities, including local authorities thereof, shall be taxable only in that State.

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

- (a) is a citizen of that State; or
- (b) did not become a resident of that State solely for the purpose of rendering the services.

2. The provisions of Articles 15 and 16 shall apply to remuneration in respect of services rendered in connection with a business carried on by a Contracting State or its state authorities or local authorities thereof.

ARTICLE 20

Payments received by Students and Apprentices

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

ARTICLE 21

Other Income

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement 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.

3. The provisions of paragraph 1 shall not apply to income, other than income from immovable property, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, 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 income 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.

ARTICLE 22

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 State.

2. Capital represented by movable property forming part of the business property of a permanent establishment which a resident 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 State.

3. Capital represented by ships and aircraft operated by a resident of a Contracting State in international traffic and by 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 23

Elimination of Double Taxation

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

(a) subject to the existing provisions of the law of Canada regarding the deduction from tax payable in Canada of tax paid in a territory outside Canada and to any subsequent modification of those provisions - which shall not affect the general principle hereof - and unless a greater deduction or relief is provided

under the laws of Canada, tax payable in the Russian Federation on profits, income or gains arising in the Russian Federation 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 taxation of income from 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 which is a resident of 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 which is a resident of the Russian Federation;

(c) where in accordance with any provision of this Agreement 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 the remaining income or capital, take into account the exempted income or capital;

(d) for the purposes of this paragraph, profits, income or gains of a resident of Canada which are taxed in the Russian Federation in accordance with this Agreement shall be deemed to arise from sources in the Russian Federation,

2. In the case of the Russian Federation, double taxation shall be avoided as follows: where a resident of the Russian Federation derives income or owns capital which, in accordance with the provisions of this Agreement, may be taxed in Canada, the amount of tax on that income or capital payable in Canada shall be credited against the tax imposed on such resident of the Russian Federation. The amount of such credit shall not, however, exceed the amount of the tax on that income or capital computed in accordance with the taxation laws and regulations of the Russian Federation.

ARTICLE 24

Non-Discrimination with respect to Taxation

1. Residents 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 residents of that other State in the same circumstances are or may be subjected.

This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

2. The taxation of income or profits which a person that is a resident of a Contracting State derives through a permanent establishment situated in the other Contracting State or from property forming part of the business property of that permanent establishment 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. The provisions of this Article shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any tax allowance which are granted by the first-mentioned State to residents of third States under the provisions of tax agreements with such third States.

4. The provisions of this Article shall apply to taxes which are the subject of this Agreement.

ARTICLE 25

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law 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 the 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 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 Agreement.

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

4. The competent authorities of the Contracting States may consult together for the elimination of double taxation in cases not provided for in the Agreement and may communicate with each other directly for the purpose of applying the Agreement.

ARTICLE 26

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 Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement insofar as the taxation thereunder

is not contrary to the Agreement. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement in respect of, or the determination of appeals in relation to, the taxes covered by the Agreement. 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 was involved notwithstanding the fact that the other State does not, at that time, need such information. If specifically requested by the competent authority of a Contracting State, the competent authority of the other Contracting State shall endeavour to provide information under this Article in the form requested, such as depositions of witnesses and copies of unedited original documents (including books, papers, statements, records, accounts or writings), to the same extent such depositions and documents can be obtained under the laws and administrative practices of that other State with respect to its own taxes.

ARTICLE 27

Other Fiscal Privileges

Nothing in this Agreement shall affect the fiscal privileges of persons under the general rules of international law or under the provisions of special agreements.

ARTICLE 28

Special Provisions

Nothing in this Agreement shall be construed as preventing a Contracting State from imposing a tax on amounts included in the income of its residents with respect to a partnership, trust, or controlled foreign affiliate, in which he has an interest.

ARTICLE 29

Entry into Force

1. Each of the Contracting States shall notify the other Contracting State through diplomatic channels of completion of the internal procedures required by its law for the entry into force of this Agreement.
2. This Agreement shall enter into force on the date the later of the notifications referred to in paragraph 1 is received and its provisions shall apply:
 - (a) in respect of taxes withheld at the source on amounts paid or credited to non-residents from or after January 1 of the calendar year following the year the present Agreement enters into force; and
 - (b) in respect of other taxes for taxation periods beginning on or after January 1 of the calendar year following the year the present Agreement enters into force.
3. From the date this Agreement enters into force, the Agreement between the Government of Canada and the Government of the Union of Soviet Socialist Republics for the Avoidance of Double Taxation on Income of June 13, 1985, shall cease to have effect in relations between Canada and the Russian Federation.

ARTICLE 30

Termination

This Agreement has been entered into for an indeterminate period and shall remain in force until one of the Contracting States notifies the other Contracting State through diplomatic channels at least six months before the end of any calendar year, of its intention to terminate its effect. In such event, the Agreement shall cease to have effect:

- (a) in respect of taxes withheld at the source on amounts paid or credited to non-residents from or after January 1 of the next calendar year; and
- (b) in respect of other taxes for taxation periods beginning on or after January 1 of the following calendar year.

DONE in Ottawa, this 5th day of October, 1995, in duplicate, in the English, French and Russian languages, all the three texts being equally authentic.

FOR THE GOVERNMENT OF CANADA

Paul Martin

FOR THE GOVERNMENT OF THE RUSSIAN FEDERATION

Alexander Zaveryukha

PROTOCOL

At the signing of the Agreement between the Government of Canada and the Government of the Russian Federation for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, the undersigned have agreed on the following provisions which shall form an integral part of the Agreement.

1. It is understood that an entity that is a resident of Russia and of which at least 10 per cent of the statutory capital is owned by residents of Canada, or a permanent establishment of a Canadian resident carrying on activities in Russia, shall, in computing its profits, deduct interest on loans, whether paid to a bank or another person and without regard to the period of the loan, provided the amount of the interest does not exceed the amount that would have been agreed upon between independent persons.
2. Irrespective of the participation of the Contracting States in the General Agreement on Trade in Services (GATS), or in other international agreements, the Contracting States in their tax relations will be covered by the provisions of the present Agreement.

DONE at Ottawa, this 5th day of October, 1995, in duplicate, each in the English, French and Russian languages, all three texts being equally authentic.

FOR THE GOVERNMENT OF CANADA

Paul Martin

FOR THE GOVERNMENT OF THE RUSSIAN FEDERATION

Alexander Zaveryukha
