

No. 23599

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**SWEDEN
and
CANADA**

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital. Signed at Stockholm on 14 October 1983

Authentic texts: Swedish, English and French.

Registered by Sweden on 16 October 1985.

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**SUÈDE
et
CANADA**

Convention en vue d'éviter les doubles impositions et de prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur la fortune. Signée à Stockholm le 14 octobre 1983

Textes authentiques : suédois, anglais et français.

Enregistrée par la Suède le 16 octobre 1985.

CONVENTION¹ BETWEEN SWEDEN AND CANADA FOR THE
AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION
OF FISCAL EVASION WITH RESPECT TO TAXES ON
INCOME AND ON CAPITAL

The Government of Sweden and the Government of Canada, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, have agreed as follows:

Article 1. PERSONAL SCOPE

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

Article 2. TAXES COVERED

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

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

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

(a) In the case of Canada: the income taxes imposed by the Government of Canada,

(hereinafter referred to as "Canadian tax");

(b) In the case of Sweden:

— The State income tax, including sailors' tax and coupon tax;

— The tax on the undistributed profits of companies and the tax on distribution in connection with reduction of share capital or the winding-up of a company;

— The tax on public entertainers;

— The communal income tax; and

— The State capital tax;

(hereinafter referred to as "Swedish tax");

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

¹ Came into force on 30 October 1984 by the exchange of the instruments of ratification, which took place at Ottawa, in accordance with article 29 (2).

Article 3. GENERAL DEFINITIONS

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

(a) (i) The term "Canada" means the territory of Canada, including any area beyond the territorial seas of Canada which, under the laws of Canada, is an area within which Canada may exercise rights with respect to the sea-bed and sub-soil and their natural resources;

(ii) The term "Sweden" means the Kingdom of Sweden and includes any area outside the territorial sea of Sweden within which, under the laws of Sweden and in accordance with international law, the rights of Sweden with respect to the exploration and exploitation of the natural resources on the sea-bed or in its sub-soil may be exercised;

(b) The terms "a Contracting State" and "the other Contracting State" mean, as the context requires, Canada or Sweden;

(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 Sweden, the Minister of Finance or his authorized representative;

(g) The term "tax" means Canadian tax or Swedish 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 laws in force in a Contracting State;

(i) The term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State.

2. As regards the application of the Convention 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 Convention applies.

Article 4. RESIDENT

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein

by reason of his domicile, residence, place of management or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, 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 national;
- (d) If he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where an individual who is a resident of Canada by reason of the provisions of paragraph 1 or 2 is also considered a resident of Sweden by virtue of the application of the provisions of Swedish law commonly referred to as the "three years rule", the competent authorities of the Contracting States shall endeavour to determine his status by mutual agreement.

4. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement.

Article 5. PERMANENT ESTABLISHMENT

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

2. The term "permanent establishment" includes especially:

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

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

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

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

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

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

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

Article 6. INCOME FROM IMMOVABLE PROPERTY

1. Income 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. 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; ships, boats and aircraft shall not be regarded as immovable property.

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

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

Article 7. BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting

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

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

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

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

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

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

Article 8. SHIPPING AND AIR TRANSPORT

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

3. With respect to profits derived by the air transport consortium Scandinavian Airlines System (SAS) the provisions of paragraph 1 shall apply, but only to such part of the profits as corresponds to the shareholding in that consortium held by AB Aerotransport (ABA), the Swedish partner of Scandinavian Airlines System (SAS).

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

Article 9. ASSOCIATED ENTERPRISES

Where

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

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

Article 10. DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 15 per cent of the gross amount of the dividends. 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, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident.
4. The provisions of paragraph 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Where a company is a resident of a Contracting State, the other Contracting State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.
6. Nothing in this Convention shall be construed as preventing a Contracting State from imposing on the earnings of a company attributable to a per-

manent establishment in that State, tax in addition to the tax which would be chargeable on the earnings of a company which is a national of that State, provided that any additional tax so imposed shall not exceed 15 per cent of the amount of such earnings which have not been subjected to such additional tax in previous taxation years. For the purpose of this provision, the term "earnings" means the profits attributable to a permanent establishment in a Contracting State in a year and previous years after deducting therefrom all taxes, other than the additional tax referred to herein, imposed on such profits by that State.

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 15 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 to the extent that such interest:

- (a) Is a penalty charge for late payment;
- (b) Is paid by the central bank of a Contracting State to the central bank of the other Contracting State; or
- (c) Is paid by the purchasing enterprise to the selling enterprise in connection with the sale on credit of any equipment or merchandise, except where the sale is made between associated enterprises within the meaning of Article 9 (a) or (b).

4. Notwithstanding the provisions of paragraph 2,

(a) Interest arising in 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;

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

(c) Interest arising in Canada and paid to a resident of Sweden shall be taxable only in Sweden if it is paid in respect of a loan made, guaranteed or insured, or a credit extended, guaranteed or insured by the Exportkreditnämnden or the Sveriges Investeringsbank.

5. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as income assimilated to income from money lent by the taxation law of the State

in which the income arises. However, the term "interest" does not include income dealt with in Article 10.

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

7. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether 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.

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

Article 12. ROYALTIES

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

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

3. Notwithstanding the provisions of paragraph 2, copyright royalties and other like payments in respect of the production or reproduction of any literary, dramatic, musical or artistic work (but not including royalties in respect of motion picture films and works on film or videotape for use in connection with television) arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.

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

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

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

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

Article 13. CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has 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. However, gains from the alienation of ships or 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 22.

3. Gains from the alienation of

- (a) Shares of a company, the property of which consists principally of immovable property situated in a Contracting State, or
 - (b) 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.

For the purposes of this paragraph, the term "immovable property" shall not include property, other than rental property, in which the business of the

company, partnership or trust is carried on; however, this term shall include shares of a company described in sub-paragraph (a) above and an interest in a partnership or a trust described in sub-paragraph (b) above.

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

5. The provisions of paragraph 4 shall not affect the right of either of the Contracting States to levy, according to its law, a tax on gains from the alienation of any property derived by an individual who is a resident of the other Contracting State and has been a resident of the first-mentioned State at any time during the six years immediately preceding the alienation of the property.

Article 14. INDEPENDENT PERSONAL SERVICES

1. Income derived by 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 such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

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

Article 15. DEPENDENT PERSONAL SERVICES

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

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

- (a) The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned, and
- (b) The remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- (c) The remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated. Where a resident of Sweden derives remuneration in respect of employment exercised aboard an aircraft operated in international traffic by the air transport consortium Scandinavian Airlines System (SAS), such remuneration shall be taxable only in Sweden.

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. ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 7, 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 an athlete, 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 an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

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

Article 18. PENSIONS AND ANNUITIES

1. Pensions and annuities arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in the State in which they arise.

2. Pensions and annuities shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State.

3. Notwithstanding anything in this Convention:

(a) Pensions and allowances received from Canada under the Pension Act, the Civilian War Pensions and Allowances Act or the War Veterans Allowance Act and compensation received under regulations made under section 7 of the Aeronautics Act shall be taxable only in Canada;

(b) Alimony and other similar amounts (including child support payments) arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State, but the amount taxable in that other State shall not exceed the amount that would be taxable in the first-mentioned State if the recipient were a resident thereof.

Article 19. GOVERNMENT SERVICE

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

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

- (i) Is a national of that State; or
- (ii) Did not become a resident of that State solely for the purpose of rendering the services.

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

Article 20. STUDENTS

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

2. A student at a university or other educational institution in a Contracting State, who during a temporary stay in the other Contracting State holds an employment in that State for a period not exceeding 100 days in a calendar year for the purpose of obtaining practical experience in connection with his studies, shall be taxable in the last-mentioned State only for such part of the income from the employment as exceeds 1,500 Swedish kronor a calendar month or the equivalent in Canadian currency. The exemption granted under this paragraph shall apply only if the law in the Contracting State in which the student is employed does not allow the student a personal exemption or similar allowance and shall not, in any event, exceed an aggregate amount of 4,500 Swedish kronor or the equivalent in Canadian currency for any calendar year.

3. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of the provisions of paragraph 2. The competent authorities may also agree on such changes of the amounts mentioned in that paragraph as may be reasonable with regard to changes in the value of money, amended legislation in a Contracting State or other similar circumstances.

Article 21. OTHER INCOME

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

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

Article 22. CAPITAL

1. Capital represented by immovable property referred to in Article 6, 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 an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.

3. Capital represented by ships and aircraft operated in international traffic and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

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

(a) Subject to the provisions of sub-paragraphs (b), (c) and (d), where a resident of Sweden derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Canada, Sweden shall allow:

- (i) As a deduction from the tax on the income of that person, an amount equal to the income tax paid in Canada;
- (ii) As a deduction from the tax on the capital of that person, an amount equal to the capital tax paid in Canada.

The deduction in either case shall not, however, exceed that part of the income tax or capital tax, respectively, as computed before the deduction is given, which is appropriate, as the case may be, to the income or the capital which may be taxed in Canada.

(b) Where a resident of Canada derives a gain, referred to in paragraph 5 of Article 13, which may be taxed in Sweden, Sweden shall allow as a deduction from the income tax of that person an amount equal to the income tax paid in Canada on that gain. The deduction shall not, however, exceed that part of the income tax as computed before the deduction is given which is appropriate to the gain which may be taxed in Sweden.

(c) Where a resident of Sweden derives income or owns capital which, in accordance with the provisions of this Convention, shall be taxable only in Canada, Sweden may include this income or capital in the tax base but shall allow as a deduction from the income tax or capital tax that part of the income tax or capital tax, respectively, which is appropriate, as the case may be, to the income derived from or the capital owned in Canada.

(d) Dividends paid by a company which is a resident of Canada to a company which is a resident of Sweden shall be exempt from tax in Sweden to the extent that the dividends would have been exempt under Swedish law if both companies had been Swedish companies. This exemption shall not apply unless:

- (i) The profits out of which the dividends are paid have been subjected in Canada to a rate of income tax not lower than 25 per cent; or
- (ii) The principal part of the profits of the company paying the dividends is derived from dividends received by that company from another company
 - (A) Which is resident in Canada,
 - (B) Which carries on business (other than the management of shares, securities or other similar property) in Canada, and
 - (C) In which the first-mentioned company owns at least 25 per cent of the voting power; or
- (iii) The principal part of the dividends paid by the company which is a resident of Canada consists of dividends
 - (A) Which that company has received, in the year or previous years, in respect of shares held by it in a company which is a resident of a third State, and
 - (B) Which would have been exempt from Swedish tax if the shares in respect of which they are paid had been held directly by the company which is a resident of Sweden.

3. In the event that the competent authorities of the Contracting States are unable to reach an agreement within the meaning of paragraph 3 of Article 4, nothing in this Convention shall be construed as preventing Sweden from taxing the individual referred to in that paragraph in accordance with its domestic legislation. This provision shall in no case render the total taxation on that individual more burdensome than the total taxation that would apply if he were resident only in Sweden.

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

Article 24. 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. In this Article, the term "taxation" means taxes which are the subject of this Convention.

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 Convention, 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.

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 which is not in accordance with the Convention.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. In particular, the competent authorities of the Contracting States may 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 9.

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

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

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

They may disclose the information in public court proceedings or in judicial decisions.

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

- (a) To carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- (b) To supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) To supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

Article 27. DIPLOMATIC AGENTS AND CONSULAR OFFICERS

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

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

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

Article 28. MISCELLANEOUS RULES

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

- (a) By the laws of a Contracting State in the determination of the tax imposed by that State, or
- (b) By any other agreement entered into by a Contracting State.

2. Nothing in the Convention shall be construed as preventing Canada from imposing a tax on amounts included in the income of a resident of Canada according to section 91 of the Canadian Income Tax Act (Foreign Accrual Property Income).

Article 29. ENTRY INTO FORCE

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

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

(a) In Canada:

- (i) In respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of January in the calendar year next following that in which the exchange of instruments of ratification takes place; and
- (ii) In respect of other Canadian tax for taxation years beginning on or after the first day of January in the calendar year next following that in which the exchange of instruments of ratification takes place;

(b) In Sweden:

- (i) In respect of income derived on or after the first day of January in the calendar year next following that in which the exchange of instruments of ratification takes place; and
- (ii) In respect of capital tax which is assessed in or after the second calendar year next following that in which the exchange of instruments of ratification takes place.

3. The provisions of the Agreement of 6th April, 1951 between the Royal Government of Sweden and the Government of Canada for the Avoidance of Double Taxation and the Establishment of Rules for Reciprocal Fiscal Assistance in the Matter of Income Taxes,¹ as modified by the Supplementary Agreements of 21st January, 1966² and 28th October, 1969³ (hereinafter referred to as "the 1951 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 exchange of instruments of ratification takes place; and
- (ii) In respect of other Canadian tax for taxation years beginning on or after the first day of January in the calendar year next following that in which the exchange of instruments of ratification takes place;

(b) In Sweden, in respect of income derived on or after the first day of January in the calendar year next following that in which the exchange of instruments of ratification takes place.

4. Notwithstanding the provisions of paragraph 3, where any greater relief from tax would have been afforded by the provisions of the 1951 Agreement, any such provision as aforesaid shall continue 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 before the last day of the calendar year next following that in which the exchange of instruments of ratification takes place; and

¹ United Nations, *Treaty Series*, vol. 197, p. 393.

² *Ibid.*, vol. 869, p. 262.

³ *Ibid.*, p. 269.

- (ii) In respect of other Canadian tax for taxation years ending on or before the last day of the calendar year next following that in which the exchange of instruments of ratification takes place;
 - (b) In Sweden, in respect of income derived on or before the last day of the calendar year next following that in which the exchange of instruments of ratification takes place.
5. The 1951 Agreement shall terminate on the last date on which it has effect in accordance with the foregoing provisions of this Article.

Article 30. TERMINATION

This Convention shall continue in effect indefinitely but either Contracting State may, on or before June 30 in any calendar year after the year 1985, give notice of termination to the other Contracting State and in such event the Convention shall cease to have effect:

(a) In Canada:

- (i) In respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of January 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 Sweden:

- (i) In respect of income derived 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 capital tax which is assessed in or after the second calendar year next following that in which the notice is given.

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

DONE in duplicate at Stockholm this 14th day of October 1983 in the English, French and Swedish languages, each version equally authentic.

For the Government of Sweden:

LENNART BODSTRÖM

For the Government of Canada:

ANDRÉ COUVRETTE