

No. 24963

**CANADA
and
CÔTE D'IVOIRE**

Convention for the avoidance of double taxation with respect to taxes on income and the prevention of fiscal evasion. Signed at Montreal on 16 June 1983

Authentic texts: English and French.

Registered by Canada on 16 July 1987.

**CANADA
et
CÔTE D'IVOIRE**

Convention en vue d'éviter les doubles impositions en matière d'impôts sur le revenu et de prévenir l'évasion fiscale. Signée à Montréal le 16 juin 1983

Textes authentiques : anglais et français.

Enregistrée par le Canada le 16 juillet 1987.

CONVENTION¹ BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE REPUBLIC OF THE IVORY COAST FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND THE PREVENTION OF FISCAL EVASION

The Government of Canada and the Government of the Republic of the Ivory Coast,
Desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income and the prevention of fiscal evasion,

Have agreed as follows:

Article I. PERSONAL SCOPE

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

Article II. TAXES COVERED

1. This Convention shall apply to taxes on income 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 all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable property, as well as taxes on capital appreciation.

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

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

(b) In the case of the Ivory Coast:

- (i) The tax on industrial, commercial and agricultural profits;
- (ii) The tax on non-commercial profits;
- (iii) The tax on wages and salaries and the employers' contribution;
- (iv) The tax on income from movable capital;
- (v) The general tax on income

(hereinafter referred to as "Ivory Coast 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 changes which have been made in their respective taxation laws.

Article III. GENERAL DEFINITIONS

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

¹ Came into force on 19 December 1985 by the exchange of the instruments of ratification, which took place at Abidjan, in accordance with article XXVII (2).

(a) The term “Canada” used in a geographical sense, 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 seabed and subsoil and their natural resources;

(b) The term “Ivory Coast” used in a geographical sense, means the national territory as well as the sea area over which the Republic of the Ivory Coast has sovereign jurisdiction, including any area outside the territorial sea of the Ivory Coast which in accordance with international law has been or may hereafter be designated, under the laws of the Ivory Coast concerning the continental shelf, as an area within which the rights of the Ivory Coast with respect to the seabed and subsoil and their natural resources may be exercised;

(c) The term “nationals” means:

- (i) All individuals possessing the nationality of a Contracting State;
- (ii) All legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State;

(d) The terms “a Contracting State” and “the other Contracting State” mean, as the context requires, Canada or the Ivory Coast;

(e) The term “person” includes an individual, a company and any other body of persons; and in the case of Canada, it also includes an estate and a trust;

(f) 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;

(g) 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;

(h) 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;

(i) The term “competent authority” means, in the case of Canada, the Minister of National Revenue or his authorized representative, and in the case of the Ivory Coast, the Minister of Finance or his authorized representative.

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 IV. 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 of this Article an individual is a resident of both Contracting States, then his status shall be determined by the following rules:

- (a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) If he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- (d) If he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 of this Article a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall by mutual agreement endeavour to settle the question and to determine the mode of application of the Convention to such person.

Article V. 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 store;
- (f) A workshop;
- (g) A mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- (h) A building site or construction or temporary assembly project or supervisory activities in connection therewith, where such site, temporary project or activity continues for a period of more than six months or where such temporary project or activity, being incidental to the sale of machinery or equipment, continues for a period not exceeding six months and the charges payable for the temporary project or activity exceed 10 per cent of the sale price of the machinery or equipment;
- (i) A fixed place of business used for the purpose of delivery of goods or merchandise belonging to the enterprise;
- (j) A stock of goods or merchandise belonging to the enterprise maintained for the purpose of delivery;
- (k) A fixed place of business used for the purpose of purchasing goods or merchandise, or for collecting information which is the actual object of the business of the enterprise.

3. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:

- (a) The use of facilities solely for the purpose of storage or display 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 or display;
- (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 collecting information for the enterprise except where the collection of such information is the actual object of the business of the enterprise;
- (e) The maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, advertising, furnishing information, scientific research or similar activities of a preparatory character.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, where a person—other than an agent of an independent status to whom paragraph 6 of this Article applies—is acting on behalf of an enterprise and has, and habitually exercises in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise unless the activities of such person are limited to those mentioned in paragraph 3 of this Article.

The authority referred to in the preceding subparagraph shall, in particular, be deemed to be exercised by an agent who habitually has available to him in the first-mentioned Contracting State a stock of goods or merchandise, belonging to the enterprise, from which he regularly fills orders received by him on behalf of the enterprise.

5. An insurance enterprise of a Contracting State shall, except with regard to reinsurance, be deemed to have a permanent establishment in the other Contracting State from the time it collects premiums in the territory of that other State or insures risks situated therein through a representative who does not fall within the type of persons referred to in paragraph 6 of this Article.

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

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 VI. 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 of this Article shall apply to income derived from the direct use, letting, or use in any other form of immovable property and to income or profits from the alienation of such property.

4. The provisions of paragraphs 1 and 3 of this Article 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 VII. BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on 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 of this Article, 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 a share of executive and general administrative expenses incurred for the purpose of the whole enterprise, whether in the Contracting State in which the permanent establishment is situated or elsewhere, computed on a *pro rata* basis with respect to the turnover realized by each of the permanent establishments, or in accordance with any other reasonable criterion.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 of this Article shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

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

3. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

4. The provisions of paragraphs 1 and 2 of this Article shall also apply to profits from a participation in a pool, a joint business or an international operating agency. This provision shall apply to that part only of the profits accruing, under the statutes, to the Ivory Coast participation in the multinational company AIR-AFRIQUE.

Article IX. ASSOCIATED ENTERPRISES

1. Where

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

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

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

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

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

Article X. DIVIDENDS

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

2. 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) 18 per cent of the gross amount of the dividends where these are paid by a company which is a resident of the Ivory Coast and which is exempt from tax on profits or which does not pay that tax at the rate provided under general law; and
- (b) 15 per cent of the gross amount of the dividends in all other cases.

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

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

4. The provisions of paragraphs 1 and 2 of this Article 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 VII or Article XIV, 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. Notwithstanding any provision of this Convention

- (a) A company which is a resident of the Ivory Coast and which has a permanent establishment in Canada shall, in accordance with the provisions of Canadian law, remain subject to the additional tax on companies other than Canadian corporations, but the rate of such tax shall not exceed 15 per cent;
- (b) A company which is a resident of Canada and which has a permanent establishment in the Ivory Coast shall remain subject to the withholding tax in accordance with the provisions of the law of the Ivory Coast, but the rate of such tax shall not exceed 15 per cent.

Article XI. 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 of this Article, interest arising in a Contracting State shall be exempt from tax in that State if it is paid to the government of the other Contracting State, which is the beneficial owner thereof, or to a political or administrative subdivision or local authority thereof or to any agency or establishment exercising functions of a governmental nature which is wholly owned by that government, subdivision or authority.

4. 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, as well as income assimilated to income from money lent by the taxation law of the Contracting State in which the income arises. However, the term "interest" does not include income dealt with in Article X.

5. The provisions of paragraphs 1 and 2 of this Article 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 VII or Article XIV, 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, a political or administrative 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 Contracting 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 interest shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article XII. ROYALTIES

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

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

3. The term “royalties” as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films and films and tapes for television or radio broadcasting), patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, agricultural, industrial, commercial or scientific equipment, or for information concerning agricultural, industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 of this Article 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 VII or Article XIV, as the case may be, shall apply.

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

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

Article XIII. CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article VI 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.

3. 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 the place of effective management of the enterprise is situated.

4. Gains from the alienation of

- (a) Shares of the capital stock of a company the property of which consists principally of immovable property situated in a Contracting State, and
- (b) An interest in a partnership, trust or estate, 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” includes the shares of a company referred to in subparagraph (a) or an interest in a partnership, trust or estate referred to in subparagraph (b).

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

6. The provisions of paragraph 5 of this Article 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 XIV. 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 such resident:

- (a) Has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; or
- (b) Performs such professional services or such other activities of an independent character in the other Contracting State for a period or periods—including normal breaks in work—exceeding 183 days in the calendar year concerned.

In that case, the income may be taxed in that other State but only so much of it as is attributable to the activities performed through the said fixed base or during the said period or periods.

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 XV. DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles XVI, XVIII and XIX, 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 of this Article, 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—including normal breaks in work—not exceeding in the aggregate 183 days in the fiscal 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 shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

Article XVI. 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 XVII. ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles XIV and XV, 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 VII, XIV and XV, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

Article XVIII. PENSIONS AND ANNUITIES

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

2. Pensions and annuities arising in a Contracting State and paid to a resident of the other Contracting State may also be taxed in the State in which they arise, and according to the law of that State. However, in the case of periodic pension or annuity payments, the tax so charged shall not exceed 15 per cent of the gross amount of the payment.

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

Article XIX. GOVERNMENT SERVICE

1. (a) Remuneration, other than a pension, paid by a Contracting State or a political or administrative 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 Contracting State.

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

- (i) Is not a national of the first-mentioned Contracting State referred to in subparagraph (a) above; or
- (ii) Did not become a resident of the other Contracting State solely for the purpose of rendering the services.

2. The provisions of Articles XV and XVI shall apply to remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political or administrative subdivision or a local authority thereof.

Article XX. STUDENTS AND TRAINEES

Payments which a student or 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.

Article XXI. OTHER INCOME

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

2. However, if such income is derived by a resident of a Contracting State from sources in the other Contracting State, such income may also be taxed in the State in which it arises, and according to the law of that State.

Article XXII. 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 Ivory Coast on profits, income or gains arising in the Ivory Coast 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 the Ivory Coast.

2. For the purposes of paragraph 1(a) of this Article, tax payable in the Ivory Coast by a company which is a resident of Canada

(a) In respect of profits attributable to a trade or business carried on by it in the Ivory Coast

shall be deemed to include any amount which would have been payable as Ivory Coast tax for any year but for an exemption from, or reduction of, tax granted for that year or any part thereof under

- (b) The provisions of the Annex to Law no 59-134 of September 3, 1959, to the extent they were in force on, and have not been modified since, the date of signature of this Convention, or have been modified only in minor respects so as not to affect their general character; or
- (c) Any other provision subsequently made granting an exemption or reduction of tax which is agreed by the competent authorities of the Contracting States to be of a substantially similar character, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general character.

3. In the case of the Ivory Coast, double taxation shall be avoided as follows:

The tax authorities of the Ivory Coast may not include in the tax base income which may be taxed in Canada under this Convention. However, the Ivory Coast reserves the right to take into account, in determining the rate of tax, the income so excluded.

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 XXIII. 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, submit his case to the competent authority of the Contracting State of which he is a resident. The case must be submitted within two years from the first notification of the action which gives rise to taxation not in accordance with the provisions of the Convention.

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

3. 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.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs and for any other purpose provided for in this Convention.

Article XXIV. 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 I. 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 Con-

vention. 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 of this Article be construed so as to impose on a Contracting State the obligation:

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

Article XXV. 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 IV, 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 XXVI. 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 the application of the provisions of the domestic law of each Contracting State concerning the taxation of income of persons in respect of their participation in non-resident companies or concerning fiscal evasion.

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

Article XXVII. ENTRY INTO FORCE

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

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 following that in which the Convention enters into force; and
- (ii) In respect of other Canadian tax for taxation years beginning on or after the first day of January in the calendar year following that in which the Convention enters into force;

(b) In Ivory Coast:

- (i) To taxes withheld at the source on income credited or payable on or after the first day of January of the year following that in which the Convention enters into force; and
- (ii) To other taxes levied on income for any taxable period ending on or after the first day of January of the year following that in which the Convention enters into force.

Article XXVIII. TERMINATION

This Convention shall continue in effect as long as it has not been terminated by one of the Contracting States. Either Contracting State may, through diplomatic channel, terminate the Convention by giving a six-month notice before the end of any calendar year beginning after the fifth year from the year of the entry into force of the Convention. 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 of the termination; 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 of the termination;

(b) In Ivory Coast:

- (i) To taxes withheld at the source on income credited or payable at the latest on December 31 of the year of the termination; and
- (ii) To other taxes levied on income for any taxable period ending on or before December 31 of the same year.

[For testimony and signatures, see p. 97 of this volume].