

Convention between the Government of Canada and the Government of the State of Israel for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income

THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE STATE OF ISRAEL;

DESIRING to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income;

HAVE AGREED as follows:

I. SCOPE OF THE CONVENTION

ARTICLE 1

Persons Covered

1. This Convention shall apply to persons who are residents of one or both of the Contracting States.
2. For the purposes of this Convention, income of a company, partnership, trust or other entity of a Contracting State that is treated as wholly or partly fiscally transparent under the tax law of either Contracting State shall be considered to be income of a resident of a Contracting State but only to the extent that the income is treated, for purposes of taxation by that State, as the income of a resident of that State.

ARTICLE 2

Taxes Covered

1. This Convention shall apply to taxes on income imposed on behalf of a 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 or immovable property.
3. The existing taxes to which this Convention shall apply are in particular:

(a) in the case of Israel:

(i) the income tax and company tax (including tax on capital gains);

(ii) the tax imposed on gains from the alienation of property according to the *Real Estate Taxation Law*,

(hereinafter referred to as "Israeli tax"); and

(b) in the case of Canada, the taxes imposed by the Government of Canada under the *Income Tax Act* (hereinafter referred to as "Canadian tax").

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

II. DEFINITIONS

ARTICLE 3

General Definitions

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

(a) the term "Israel" means the State of Israel and when used in a geographical sense includes its territorial sea, as well as those maritime areas adjacent to the outer limit of the territorial sea, including seabed and subsoil thereof over which the State of Israel, in accordance with international law and the laws of the State of Israel, exercises its sovereign rights or jurisdiction;

(b) the term "Canada", used in a geographical sense, means:

(i) the land territory, internal waters and territorial sea, including the air space above these areas, of Canada;

(ii) the exclusive economic zone of Canada, as determined by its domestic law, consistent with Part V of the *United Nations Convention on the Law of the Sea*, done at Montego Bay on 10 December 1982 (UNCLOS); and

(iii) the continental shelf of Canada, as determined by its domestic law, consistent with Part VI of UNCLOS;

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

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

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

(f) the term "enterprise" applies to the carrying on of any business;

(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 of 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:

(i) in the case of Israel, the Minister of Finance or the Minister's authorized representative; and

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

(j) the term "national", in relation to a Contracting State, means:

(i) any individual possessing the nationality of that Contracting State; and

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

(k) the term "business" includes the performance of professional services and of other activities of an independent character;

(l) the term "recognized pension plan" means:

(i) in the case of Canada, a plan, arrangement or contract described in paragraph (a) of the definition of "pension" under Article 5 of the *Income Tax Conventions Interpretation Act*;

(ii) in the case of Israel, a pension plan that has been approved in accordance with the provisions of the *Control of Financial Services Act (provident funds) 2005*, as a Pension provident fund; and

(iii) any other pension plan agreed by the competent authorities of both Contracting States.

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

any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

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 the person's domicile, residence, place of management, place of incorporation or any other criterion of a similar nature. This term also includes that State and any political subdivision or local authority thereof, or any agency or instrumentality of that State, subdivision or local authority. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

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

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

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

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

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

3. 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 shall endeavour to determine by mutual agreement the Contracting State of which such person shall be considered to be a resident for the purposes of this Convention, having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of mutual agreement, that person shall not be entitled to claim any relief or exemption from tax provided by this Convention.

ARTICLE 5

Permanent Establishment

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

2. The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop; and

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

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

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

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

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

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

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

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

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

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 6 applies – is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts on behalf of

the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

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

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

III. TAXATION OF INCOME

ARTICLE 6

Income from Immovable Property

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

2. For the purposes of this Convention, the term "immovable property" shall have the meaning which it has for the purposes of the relevant tax 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, any option or similar right to acquire immovable property, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.

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

ARTICLE 7

Business Profits

1. 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 business as aforesaid, the profits that are attributable to the permanent establishment in accordance with the provisions of paragraph 2 may be taxed in that other State.

2. For the purposes of this Article and Article 21 (Elimination of Double Taxation), the profits that are attributable in each Contracting State to the permanent establishment referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise.

3. Where, in accordance with paragraph 2, a Contracting State adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting States and taxes accordingly profits of the enterprise that have been charged to tax in the other State, the other State shall, to the extent necessary to eliminate double taxation on these profits, make an appropriate adjustment to the amount of the tax charged on those profits. In determining such adjustment, the competent authorities of the Contracting States shall if necessary consult each other.

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

ARTICLE 8

Shipping and Air Transport

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

2. Notwithstanding the provisions of paragraph 1 and Article 7 (Business Profits), profits derived by an enterprise of a Contracting State from the carriage, by a ship or aircraft that it operates, of passengers or goods taken on board at one place in the other Contracting State for discharge at another place in that other Contracting State may be taxed in that other Contracting State, unless all or substantially all of these passengers or goods were taken on board at a place outside that other Contracting State.

3. The provisions of paragraphs 1 and 2 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

ARTICLE 9

Associated Enterprises

1. Where:

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

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

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

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

3. A Contracting State shall not change the profits of an enterprise in the circumstances referred to in paragraph 1 after the expiry of the time limits provided in its domestic laws and, in any case, after eight 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 shall not apply in the case of fraud or wilful default.

ARTICLE 10

Dividends and Distributions by a Real Estate Investment Fund

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

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

(a) 5 per cent of the gross amount of the dividends if the beneficial owner of the dividends is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;

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

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. Notwithstanding the provisions of paragraph 2, dividends paid by a company of a Contracting State to a resident of the other Contracting State that is the Government of that other State, or any political subdivision or local authority thereof, or the Central Bank of that other State, shall be taxable only in the other State if that resident:

(a) is the beneficial owner of the dividends; and

(b) does not hold directly or indirectly more than 25 per cent of the capital or 25 per cent of the voting power of the company paying the dividends.

4. Notwithstanding the provisions of paragraph 2, dividends arising in a Contracting State and beneficially owned by an organization that was constituted and is operated in the other Contracting State exclusively to administer or provide benefits under one or more recognized pension plans shall be exempt from tax in the first-mentioned State if:

(a) the organization is the beneficial owner of the shares on which the dividends are paid, holds those shares as an investment and is either generally exempt from tax in the other State or its income is not subject to tax in the other State;

(b) the organization does not hold directly or indirectly more than 10 per cent of the capital or 10 per cent of the voting power of the company paying the dividends; and

(c) each recognized pension plan provides benefits primarily to individuals who are residents of the other Contracting State.

5. Notwithstanding any other provision of this Convention, distributions made by a real estate investment fund which is a resident of Israel to a resident of Canada may be taxed in Canada. However, such distributions may also be taxed in Israel and according to the laws of Israel, but if the beneficial owner of these distributions is a resident of Canada and holds directly less than 10 per cent of the capital of that real estate investment fund, the tax so charged shall not exceed 15 per cent of the gross amount of the distributions.

This paragraph shall not affect the taxation of the real estate investment fund in respect of the profits out of which the distributions are made.

6. 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.

7. The provisions of paragraphs 1, 2, 3, 4 and 5 shall not apply if the beneficial owner of the dividends or of the distributions by a real estate investment fund, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends or making the distributions is a resident, through a permanent establishment situated therein and the holding in respect of which the dividends or distributions are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 (Business Profits) shall apply.

8. 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 (or the distributions made by a real estate investment fund), except insofar as such dividends are paid (or distributions are made) to a resident of that other State or insofar as the holding in respect of which the dividends are paid (or distributions are made) is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid (or the distributions made) or the undistributed profits consist wholly or partly of profits or income arising in such other State.

9. Nothing in this Convention shall prevent a Contracting State from imposing its branch tax. However, the rate of the branch tax applying to a company that is a resident of the other Contracting State shall not exceed 5 per cent.

10. A resident of a Contracting State shall not be entitled to any benefits provided under this Article in respect of a dividend if one of the main purposes of any person concerned with an assignment or a transfer of the dividend, or with the creation, assignment, acquisition or transfer of the shares or other rights in respect of which the dividend is paid, or with the establishment, acquisition or maintenance of the person that is the beneficial owner of the dividend, is for that resident to obtain the benefits of this Article.

ARTICLE 11

Interest

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

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

3. Notwithstanding the provisions of paragraph 2:

(a) interest arising in a Contracting State and beneficially owned by the Government of the other Contracting State, or any political subdivision or local authority thereof, or by the Central Bank of that other State, shall be exempt from tax in the first-mentioned State;

(b) interest arising in a Contracting State and paid in respect of indebtedness of the Government of that State, or any political subdivision or local authority thereof, or the Central Bank of that State shall be taxable only in the other State if the interest is beneficially owned by a resident of that other State;

(c) interest arising in Israel 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 by Export Development Canada and the beneficial owner of the interest is dealing at arm's length with the payer;

(d) interest arising in Canada and paid to a resident of Israel shall be taxable only in Israel if it is paid in respect of a loan made, guaranteed or insured by Ashra – The Israel Export Insurance Corporation Ltd. and the beneficial owner of the interest is dealing at arm's length with the payer;

(e) interest arising in a Contracting State and beneficially owned by an organization that was constituted and is operated in the other Contracting State exclusively to administer or provide benefits under one or more recognized pension plans shall be exempt from tax in the first-mentioned State if:

(i) the organization is the beneficial owner of the interest and is either generally exempt from tax in the other State or its income is not subject to tax in the other State;

(ii) each recognized pension plan provides benefits primarily to individuals who are resident of the other Contracting State; and

(iii) the organization does not hold directly or indirectly more than 10 per cent of the capital or 10 per cent of the voting power of the company paying the interest;

(f) the tax charged by a Contracting State on interest arising in that State and paid to a resident of the other Contracting State shall not exceed 5 per cent of the gross amount of the interest if the beneficial owner of the interest is a financial institution and is dealing at arm's length with the payer. For the purposes of this subparagraph, the term "financial institution" means a bank or other enterprise substantially deriving its profits by raising debt finance in the financial markets or by taking deposits at interest and using those funds in carrying on a business of providing finance.

4. For the purposes of paragraph 3, a person shall be deemed not to be dealing at arm's length with another person if, based on all relevant facts and circumstances, one controls directly or indirectly the other, or both are under the direct or indirect control of the same person or persons or, in the case of individuals, if one person is connected to the other by blood relationship, marriage or common-law partnership or adoption.

5. Subparagraph 3(f) shall not apply to interest, all or any portion of which is contingent or dependent on the use of or production from property or is computed by reference to revenue, profit, cash flow, commodity price or any other similar criterion or by reference to dividends paid or payable to shareholders of any class of shares of the capital stock of a company.

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

7. The provisions of paragraphs 1, 2 and 3 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 and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 (Business Profits) shall apply.

8. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether the payer is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.

9. 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 exceeds for whatever reason 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.

10. A resident of a Contracting State shall not be entitled to any benefits provided under this Article in respect of interest if one of the main purposes of any person concerned with an assignment or a transfer of the interest, or with the creation, assignment, acquisition or transfer of the debt-claim or other rights in respect of which the interest is paid, or with the establishment, acquisition or maintenance of the person that is the beneficial owner of the interest, is for that resident to obtain the benefits of this Article.

ARTICLE 12

Royalties

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

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

3. Notwithstanding the provisions of paragraph 2:

(a) copyright royalties and other like payments in respect of the production or reproduction of any literary, dramatic, musical or other artistic work (but excluding royalties in respect of motion picture films and royalties in respect of works on film, videotape or other means of reproduction for use in connection with television broadcasting); and

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

arising in a Contracting State and paid to a resident of the other Contracting State who is the beneficial owner of the royalties 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:

(a) the use of, or the right to use, any copyright, patent, trade mark, design or model, plan, secret formula or process, or computer software; or

(b) information concerning industrial, commercial or scientific experience; or

(c) the use of, or the right to use:

(i) motion picture films; or

(ii) films or videotapes or other means of reproduction for use in connection with television; or

(d) the use of, or the right to use, industrial, commercial or scientific equipment.

However, for the purposes of subparagraph d), the term "royalties" does not include income dealt with in Article 8 (Shipping and Air Transport).

5. The provisions of paragraphs 1, 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, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 (Business Profits) shall apply.

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

8. A resident of a Contracting State shall not be entitled to any benefits provided under this Article in respect of a royalty if one of the main purposes of any person concerned with an assignment or a transfer of the royalty, or with the creation, assignment, acquisition or transfer of rights in respect of which the royalty is paid, or with the establishment, acquisition or maintenance of the person that is the beneficial owner of the royalty, is for that resident to obtain the benefits of this Article.

ARTICLE 13

Capital Gains

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

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.

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

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

(a) shares, deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other State (at the time of the alienation or at any time during the twelve preceding months); or

(b) an interest in a partnership, trust or other entity, deriving more than 50 per cent of its value directly or indirectly from immovable property situated in that other State (at the time of the alienation or at any time during the twelve preceding months);

may be taxed in that other State.

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

6. Notwithstanding paragraph 5, where an individual:

(a) ceases to be a resident of a Contracting State and by reason thereof is treated for the purposes of taxation in that State as having alienated a property and is taxed in that State accordingly; and

(b) at any time thereafter becomes a resident of the other Contracting State;

the other Contracting State may tax gains in respect of the property only to the extent that such gains had not accrued while the individual was a resident of the first-mentioned State. However, this provision shall not apply to property, any gain from which the other Contracting State could have taxed in accordance with the provisions of paragraphs 1 to 4 of this Article if the individual had realized the gain before becoming a resident of that other Contracting State. The competent authorities shall endeavour to resolve by mutual agreement any issue which may arise from the application of this paragraph and of the domestic laws of the Contracting States in situations where a person ceases to be a resident of a Contracting State and by reason thereof is treated for the purposes of taxation in that State as having alienated a property and is taxed in that State accordingly.

7. A resident of a Contracting State shall not be entitled to any benefits provided under this Article in respect of any gain if one of the main purposes of any person concerned with the alienation giving rise to the gain, or with the establishment, acquisition or maintenance of the person that is the beneficial owner of the gain, is for that resident to obtain the benefits of this Article.

ARTICLE 14

Income from Employment

1. Subject to the provisions of Articles 15 (Directors' Fees), 17 (Pensions and Annuities), and 18 (Government Services), 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 any twelve-month period commencing or ending 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 which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that State.

ARTICLE 15

Directors' Fees

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

ARTICLE 16

Entertainers and Sportspersons

1. Notwithstanding the provisions of Articles 7 (Business Profits) and 14 (Income from Employment), income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from that resident's personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in that individual's capacity as such accrues not to the entertainer or sportsperson personally but to another person, that income may, notwithstanding the provisions of Articles 7 (Business Profits) and 14 (Income from Employment), be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

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

4. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities performed in a Contracting State by a resident of the other Contracting State in the context of a visit in the first-mentioned State of a non-profit organization of the other State, if the visit is wholly or mainly supported by public funds of one or both of the Contracting States or political subdivisions or local authorities thereof.

ARTICLE 17

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 arising in a Contracting State and paid to a resident of the other Contracting State may also be taxed in the State in which they arise and according to the laws of that State. However, in the case of periodic pension payments, the tax so charged shall not exceed the lesser of:

(a) 15 per cent of the gross amount of the payment; and

(b) the amount of tax that the recipient of the payment would otherwise be required to pay for the year on the total amount of the periodic pension payments received by the individual in the year, if the individual were resident in the Contracting State in which the payment arises.

3. 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, but the tax so charged shall not exceed 15 per cent of the portion of those annuities that is subject to tax in that State. However, this limitation does not apply to lump-sum payments arising on the surrender, cancellation, redemption, sale or other alienation of an annuity, or to payments of any kind under an annuity contract the cost of which was deductible, in whole or in part, in computing the income of any person who acquired the contract.

4. Notwithstanding anything in this Convention:

(a) war pensions and allowances (including pensions and allowances paid to war veterans or paid as a consequence of damages or injuries suffered as a consequence of a war) arising in a Contracting State and paid to a resident of the other Contracting State shall be exempt from tax in that other State to the extent that they would be exempt from tax if received by a resident of the first-mentioned State;

(b) alimony and other similar payments arising in a Contracting State and paid to a resident of the other Contracting State who is subject to tax in that other Contracting State in respect of that alimony and other similar payments 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; and

(c) benefits under the social security laws in a Contracting State, the contributions in respect of which (other than employer contributions or the equivalent thereto in the context of self-employment) are not deductible for the purposes of taxation in that State, paid to a resident of the other Contracting State shall be exempt from tax in that other State if they would be exempt from tax if received by a resident of the first-mentioned State.

5. For the purposes of this Article, the term "pension" includes benefits under the social security laws of a Contracting State.

ARTICLE 18

Government Service

1. (a) Salaries, wages and other similar 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 salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that 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 Articles 14 (Income from Employment), 15 (Director's Fees), 16 (Entertainers and Sportspersons) and 17 (Pensions and Annuities) shall apply to salaries, wages, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

ARTICLE 19

Students

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

ARTICLE 20

Other Income

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

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

IV. METHODS FOR ELIMINATION OF DOUBLE TAXATION

ARTICLE 21

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 laws 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 of those provisions – and unless a greater deduction or relief is provided under the laws of Canada, tax payable in Israel on profits, income or gains arising in Israel shall be deducted from any Canadian tax payable in respect of such profits, income or gains;

(b) subject to the existing provisions of the laws of Canada regarding the allowance as a credit against Canadian tax of tax payable in a territory outside Canada and to any subsequent modification of those provisions – which shall not affect the general principle hereof – where a company which is a resident of Israel pays a dividend to a company which is a resident of Canada and which controls directly or indirectly at least 10 per cent of the voting power in the first-mentioned company, the credit shall take into account the tax payable in Israel by that first-mentioned company in respect of the profits out of which such dividend is paid; and

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

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

(a) where a resident of Israel derives income which, in accordance with the provisions of this Convention, may be taxed in Canada, Israel shall (subject to the laws of Israel regarding the allowance of a credit of foreign taxes, which shall not affect the general principle contained in this paragraph) allow as a deduction from the tax on the income of that resident, an amount equal to the tax paid in Canada;

(b) subject to the existing provisions of the laws of Israel regarding the allowance as a credit against Israeli tax of tax payable in a territory outside Israel and to any subsequent modification of those provisions – which shall not affect the general principle hereof – where a company which is a resident of Canada pays a dividend to a company which is a resident of Israel and which controls directly or indirectly at least 25 per cent of the means of control in the first-mentioned company, the credit shall take into account the tax payable in Canada by that first-mentioned company in respect of the profits out of which such dividend is paid; and

(c) such deductions shall not, however, exceed that part of the income tax as computed before the deduction is given, which is attributable to the income which may be taxed in Canada.

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

V. SPECIAL PROVISIONS

ARTICLE 22

Non-Discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith that is more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, 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. Except where the provisions of paragraph 1 of Article 9 (Associated Enterprises), paragraph 9 of Article 11 (Interest) or paragraph 7 of Article 12 (Royalties) apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.
5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is more burdensome than the taxation and connected requirements to which other similar enterprises which are residents of the first-mentioned State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of a third State, are or may be subjected.
6. The provisions of this Article shall apply to the taxes referred to in Article 2 (Taxes Covered) of this Convention.

ARTICLE 23

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for that person in taxation not in accordance with the provisions of this Convention, that person may, irrespective of the remedies provided by the domestic law of those States, address to the competent authority of the Contracting State of which that person is a resident an application in writing stating the grounds for claiming the revision of such taxation. To be admissible, the application must be submitted within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Convention.
2. The competent authority referred to in paragraph 1 shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.
3. A Contracting State shall not, after the expiry of the time limits provided in its domestic laws and, in any case, after eight years from the end of the taxable period in which the income concerned has accrued, increase the tax base of a resident of either of the Contracting States, where the amount of such increase has also been charged to tax in the other Contracting State in the hands of that resident. The preceding sentence shall not apply in case of fraud or wilful default.
4. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this Convention.
5. The competent authorities of the Contracting States may communicate with each other directly for the purpose of applying this Convention.

ARTICLE 24

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes covered by this Convention imposed on behalf of the Contracting States, insofar as the taxation thereunder is not contrary to this Convention. The exchange of information is not restricted by Article 1 (Persons Covered).
2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to taxes of every kind and description, or the oversight of the above. 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. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorizes such use.

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

(a) to carry out administrative measures at variance with the laws and 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*).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because the information relates to ownership interests in a person.

ARTICLE 25

Other Limitations

Nothing in this Convention shall prevent a Contracting State from applying any provision of its laws which are designed to prevent avoidance or evasion of taxes.

ARTICLE 26

Members of Diplomatic Missions and Consular Posts

1. Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of International Law or under the provisions of special agreements.

2. Notwithstanding the provisions of Article 4 (Resident), 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 this Convention to be a resident only of the sending State if that individual is liable in the sending State to the same obligations in relation to tax on total income as are residents of that sending State.

ARTICLE 27

Miscellaneous Rules

1. This Convention shall not affect the taxation by a Contracting State of its residents (as determined under Article 4 (Resident)). However, nothing in this paragraph shall affect the obligations of a Contracting State under paragraphs 2 and 3 of Article 9 (Associated Enterprises), paragraph 6 of Article 13 (Capital Gains), paragraph 4 of Article 17 (Pensions and Annuities), Article 18 (Government Services), Article 21 (Elimination of Double Taxation), Article 22 (Non-Discrimination) and paragraph 3 of Article 23 (Mutual Agreement Procedure).

2. Nothing in this Convention shall prevent a Contracting State from applying the provisions of its laws relating to thin capitalization.

3. For the purposes of paragraph 3 of Article XXII (Consultation) of the *General Agreement on Trade in Services* of the *Agreement Establishing the World Trade Organization*, done at Marrakesh on 15 April 1994, the Contracting States agree that, notwithstanding that paragraph, any dispute between them as to whether a measure falls within the scope of this Convention may be brought before the Council for Trade in Services, as provided by that paragraph, only with the consent of both Contracting States. Any doubt as to the interpretation of this paragraph shall be resolved under paragraph 4 of Article 23 (Mutual Agreement Procedure) or, failing agreement under that procedure, pursuant to any other procedure agreed to by both Contracting States.

VI. FINAL PROVISIONS

ARTICLE 28

Entry into Force

1. Each of the Contracting States shall notify the other Contracting State in writing, through diplomatic channels, of the completion of the procedures required by its law for the bringing into force of this Convention. This Convention shall enter into force on the date of the later of these notifications and its provisions shall have effect:

(a) in respect of taxes withheld at source, on amounts paid or credited to non-residents, on or after the first day of January of the calendar year following that in which this Convention enters into force; and

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

2. The *Convention between Canada and the State of Israel for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital*, done at Ottawa on 21 July 1975 (referred to herein as the "1975 Convention") shall cease to have effect from the dates on which this Convention becomes effective in accordance with paragraph 1.

3. The 1975 Convention shall terminate on the last date on which it has effect in accordance with paragraph 2.

4. Notwithstanding the provisions of this Article, the provisions of Article 23 (Mutual Agreement Procedure) and Article 24 (Exchange of Information) of this Convention shall have effect from the date of entry into force of this Convention, without regard to the taxable period to which the matter relates.

ARTICLE 29

Termination

1. This Convention shall continue in effect until terminated by a Contracting State. Either Contracting State may terminate this Convention, through diplomatic channels, by giving a written notice of termination at least six months before the end of any calendar year beginning on or after the expiration of a period of five years from the date of its entry into force. In such event, this Convention shall cease to have effect:

(a) in respect of taxes withheld at source, on amounts paid or credited to non-residents, on or after the first day of January of the calendar year following that in which the notice has been given; and

(b) in respect of other taxes, for taxation years beginning on or after the first day of January of the calendar year following that in which the notice has been given.

2. This Convention shall terminate on the last date on which it has effect in accordance with paragraph 1, unless the Contracting States agree otherwise.

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

DONE in duplicate at New York, this 21st day of September 2016, which corresponds to the 18th day of Elul 5776 of the Hebrew Calendar, in the English, French and Hebrew languages, each version being equally authentic.

Stéphane Dion

FOR THE GOVERNMENT OF CANADA

Moshe Kahlon

FOR THE GOVERNMENT OF THE STATE OF ISRAEL

PROTOCOL

At the time of signing of the *Convention between the Government of Canada and the Government of the State of Israel for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income* (the "Convention"), the Government of Canada and the Government of the State of Israel have agreed upon the following provisions which shall be an integral part of this Convention.

1. With reference to the Convention:

It is understood that the provisions of this Convention shall not be construed to restrict in any manner any exemption, allowance, credit or other deduction accorded by the laws of a Contracting State in the determination of the tax imposed by that State.

2. With reference to Article 2 (Taxes Covered) of the Convention:

It is understood that the taxes described in clause 3(a)(i) include taxes imposed under the *Petroleum Profits Taxation Law 5771-2011*.

3. With reference to paragraph 1 of Article 4 (Resident) of the Convention:

(a) It is understood that the term "agency", in relation to a State or any political subdivision or local authority thereof, includes a body empowered to perform functions or duties of a governmental nature on behalf of that State or any political subdivision or local authority thereof.

(b) It is understood that the term "instrumentality" includes a person that is wholly owned, directly or indirectly, by a Contracting State or by a political subdivision or local authority of a Contracting State.

4. With reference to Article 10 (Dividends and Distributions by a Real Estate Investment Fund):

(a) It is understood that, in the case of Israel, a Real Estate Investment Fund means a real estate investment fund which meets the conditions in section 64A3 of the Israeli *Income Tax Ordinance*.

(b) It is understood that the term "branch tax" means, in the case of Canada, the tax imposed in accordance with the provisions of Part XIV (Additional Tax on Non-Resident Corporation) of the *Income Tax Act*, as amended from time to time without affecting the general principle hereof.

5. With reference to paragraph 1 of Article 14 (Income from Employment):

It is understood that the term "similar remuneration" includes stock-options benefits.

6. With reference to Article 23 (Mutual Agreement Procedure):

It is understood that the term "increase the tax base" refers to adjustments that result in the inclusion of an item of income or a reduction of an expense or a deduction for tax purposes.

7. With reference to Article 24 (Exchange of Information):

It is understood that information also includes documents.

DONE in duplicate at New York, this 21st day of September 2016, which corresponds to the 18th day of Elul 5776 of the Hebrew Calendar, in the English, French and Hebrew languages, each version being equally authentic.

Stéphane Dion

FOR THE GOVERNMENT OF CANADA

Moshe Kahlon

FOR THE GOVERNMENT OF THE STATE OF ISRAEL