

This electronic version of the Canada-Estonia Income Tax Convention signed on June 2, 1995 is provided for convenience of reference only and has no official sanction.

**CONVENTION BETWEEN CANADA AND THE REPUBLIC OF ESTONIA FOR THE
AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

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

I. SCOPE OF THE CONVENTION

Article 1

Personal Scope

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

Article 2

Taxes Covered

1. This Convention shall apply to taxes on income and on capital imposed on behalf of Estonia or of its local authorities and on behalf of Canada, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.
3. The existing taxes to which the Convention shall apply are, in particular:

- a) in the case of Estonia:
 - (i) the income tax (tulumaks);
 - (ii) the land tax (maamaks); and
 - (iii) the local income tax (kohalik tulumaks);(hereinafter referred to as "Estonian tax");
- 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. The Convention shall apply also to any similar taxes and to taxes on capital which are imposed after the date of signature of the 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 which have been made in their respective taxation laws.

II. DEFINITIONS

Article 3

General Definitions

- 1. In this Convention, unless the context otherwise requires:
 - a) the term "Estonia" means the Republic of Estonia and, when used in the geographical sense, means the territory of Estonia and any other area adjacent to the territorial waters of Estonia within which, under the laws of Estonia and in accordance with international law, the rights of Estonia may be exercised with respect to the seabed and its subsoil and their natural resources;
 - b) the term "Canada" used in a geographical sense, means the territory of Canada, including:
 - (i) any area beyond the territorial seas of Canada which, in accordance with international law and the laws of Canada, is an area within which Canada may exercise rights with respect to the seabed and subsoil and their natural resources;

- (ii) the seas and airspace above every area referred to in subparagraph (i) in respect of any activity carried on in connection with the exploration for or the exploitation of the natural resources referred to therein;
- c) the terms "a Contracting State" and "the other Contracting State" mean, as the context requires, Estonia or Canada;
- d) the term "person" includes an individual, an estate, a trust, a company, a partnership and any other body of persons;
- e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- f) the 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;
- g) the term "competent authority" means:
 - (i) in the case of Estonia, the Minister of Finance or his authorised representative;
 - (ii) in the case of Canada, the Minister of National Revenue or his authorized representative;
- h) the term "national" means:
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) any legal person, partnership and association deriving its status as such from the laws in force in a Contracting State;
- i) the term "international traffic" with reference to an enterprise of a Contracting State means any voyage of a ship or aircraft to transport passengers or property except where the principal purpose of the voyage is to transport passengers or property between places within the other Contracting State.

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

Article 4

Resident

1. For the purposes of this Convention, the term "resident of a Contracting State" means:

- a) any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature;
- b) the Government of that State or a political subdivision or local authority thereof or any agency or instrumentality of any such government, subdivision or authority.

But this term 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 his status shall be determined as follows:

- a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);
- b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
- c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
- d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a company is a resident of both Contracting States, then it shall be deemed to be a resident only of the State of which it is a national.

4. Where by reason of the provisions of paragraph 1 a person other than an individual or a company 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 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 of natural resources.
3. A building site or construction or installation project constitutes a permanent establishment only if it lasts for more than six 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. However, when the activities of an agent are devoted wholly or almost wholly on behalf of that enterprise, the agent will not be considered to be an agent of an independent status within the meaning of this paragraph.

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 taxation 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. Where the ownership of shares or other corporate rights in a company entitles the owner of such shares or corporate rights to the enjoyment of immovable property held by the company, the income from the direct use, letting, or use in any other form of such right to enjoyment may be taxed in the Contracting State in which the immovable property is situated.
5. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

Business Profits

1. The business 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 business profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the business 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 and with all other persons.

3. In the determination of the business profits of a permanent establishment, there shall be allowed as deductions expenses of the enterprise (other than expenses which would not be deductible if that permanent establishment were a separate enterprise) which are incurred for the purposes of the permanent establishment including executive and general administrative expenses, whether incurred in the State in which the permanent establishment is situated or elsewhere.

4. Insofar as it has been customary in a Contracting State to determine the business 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 shall preclude that Contracting State from determining the business 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. No business profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

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

7. Where business 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.

8. Nothing in this Article shall prevent a Contracting State from applying its law relating to the taxation of any person who carries on the business of insurance (as long as that law is in effect on the date of signature of this Convention and has not been changed otherwise than in minor respects so as not to affect its general character).

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 Article 7, profits derived by an enterprise of a Contracting State from a voyage of a ship where the principal purpose of the voyage is to transport passengers or property between places in the other Contracting State may be taxed in that other 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.
4. For the purposes of this Article, profits of an enterprise from the operation of ships or aircraft in international traffic include:
 - a) profits from the rental on a bareboat basis of ships or aircraft; or
 - b) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise;

where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation by an enterprise of ships or aircraft in international traffic.

Article 9

Associated Persons

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 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, but for the conditions referred to in paragraph 1, have accrued to that enterprise.

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

Article 10

Dividends

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

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

- a) except in the case of dividends paid by a non-resident owned investment corporation that is a resident of Canada, 5 per cent of the gross amount of the dividends if the beneficial owner is a company which controls directly at least 25 per cent of the voting power in the company paying the dividends;

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

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

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, 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 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

6. Nothing in this Convention shall be construed as preventing a Contracting State from imposing on the earnings of a company attributable to a permanent establishment in that State, a tax in addition to the tax which would be chargeable on the earnings of a company which is a national of that State, provided that any additional tax so imposed shall not exceed 5 per cent of the amount of such earnings which have not been subjected to such additional tax in previous taxation years. For the purpose of this provision, the term "earnings" means the profits, including any gains, attributable to a permanent establishment in a Contracting State in a year and previous years after deducting therefrom all taxes, other than the additional tax referred to herein, imposed on such profits in that State.

Article 11

Interest

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if a resident of the other Contracting State is the beneficial owner of the interest the tax so charged shall not exceed 10 per cent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraphs 1 and 2,
 - a) interest arising in Estonia shall be taxable only in Canada if the interest is paid to:
 - (i) the Government of Canada or a political subdivision or a local authority thereof;
 - (ii) the Bank of Canada; or
 - (iii) the Export Development Corporation;
 - b) interest arising in Canada shall be taxable only in Estonia if the interest is paid to:
 - (i) the Government of Estonia or a local authority thereof;
 - (ii) the Bank of Estonia; or
 - (iii) any organisation established in Estonia after the date of signature of this Convention and which is of a similar nature as the Export Development Corporation (the competent authorities of the Contracting States shall by mutual agreement determine whether such organisations are of a similar nature);
 - c) interest arising in a Contracting State on a loan guaranteed or insured by any of the bodies mentioned or referred to in subparagraph (a) or (b) and paid to a resident of the other Contracting State shall be taxable only in that other State;
 - d) interest arising in a Contracting State shall be taxable only in the other Contracting State if:
 - (i) the recipient is an enterprise of that other State and is the beneficial owner of the interest; and

- (ii) the interest is paid with respect to indebtedness arising on the sale on credit, by that enterprise, of any merchandise or industrial, commercial or scientific equipment to an enterprise of the first-mentioned State, except where the sale or indebtedness is between related persons;
- e) interest arising in a Contracting State and paid to a resident of the other Contracting State who is the beneficial owner thereof shall be taxable only in the other State to the extent that such interest is a penalty charge for late payment.

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

5. 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, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

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

Article 12

Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if a resident of the other Contracting State 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, patent, trade mark, design or model, plan, secret formula or process or other intangible property, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience, and includes payments of any kind in respect of motion picture films and works on film, videotape or other means of reproduction for use in connection with television.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. 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 he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
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.

7. If in any convention for the avoidance of double taxation concluded by Estonia with a third State, being a member of the Organisation for Economic Co-operation and Development (OECD) at the date of signature of this Convention, Estonia after that date agrees to exempt from Estonian tax:

- a) copyright royalties and other like payments in respect of the production or reproduction of any literary, dramatic, musical or artistic work (but not including royalties in respect of motion picture films nor royalties in respect of works on film or videotape or other means of reproduction for use in connection with television broadcasting), or
- b) royalties for the use of, or the right to use, any patent or any information concerning industrial, commercial or scientific experience (but not including any such information provided in connection with a rental or franchise agreement),

arising in Estonia, such exemption shall automatically apply to royalties referred to in subparagraph (a) or (b).

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 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 derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic by that enterprise or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that Contracting State.
4. Gains derived by a resident of a Contracting State from the alienation of:
 - a) shares (other than shares listed on an approved stock exchange in the other Contracting State) forming part of a substantial interest in the capital stock of a company which is a

resident of that other State the value of which shares is derived principally from immovable property situated in that other State; or

- b) a substantial interest in a partnership, trust or estate, established under the law in the other Contracting State, the value of which is derived principally from immovable property situated in that other State,

may be taxed in that other 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) but does not include any property, other than rental property, in which the business of the company, partnership, trust or estate is carried on.

5. Where a resident of a Contracting State alienates property in the course of an organization, reorganization, amalgamation, division or similar transaction and profit, gain or income with respect to such alienation is not recognized for the purpose of taxation in that State, if requested to do so by the person who acquires the property, the competent authority of the other Contracting State may agree, subject to terms and conditions satisfactory to such competent authority, to defer the recognition of the profit, gain or income with respect to such property for the purpose of taxation in that other State until such time and in such manner as may be stipulated in the agreement.

6. 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.

7. The provisions of paragraph 6 shall not affect the right of a Contracting State to levy, according to its law, a tax on gains from the alienation of any property derived by an individual who was a resident of the first-mentioned State at any time during the five years immediately preceding the alienation of the property.

Article 14

Independent Personal Services

1. Income derived by an individual who is a resident of a Contracting State in respect of professional or similar services of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing the services. If he has or had such a fixed base, the income may be taxed in the other State but only so much of the income as is attributable to that fixed base. For this purpose, where an individual who is a resident of a Contracting State stays in the other Contracting State for a period or periods exceeding in the aggregate 183 days in any twelve-

month period commencing or ending in the tax year concerned, he shall be deemed to have a fixed base regularly available to him in that other State and the income that is derived from his activities referred to above that are performed in that other State shall be attributable to that fixed base.

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

Article 15

Dependent Personal Services

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other 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 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 by an enterprise of a Contracting State may be taxed in that State.

Article 16

Directors' Fees

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

Article 17

Artistes and Sportsmen

1. Notwithstanding the provisions of Articles 7, 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. The provisions of paragraph 2 shall not apply if it is established that neither the entertainer or the sportsman nor persons related thereto, 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 exercised in a Contracting State by an entertainer or sportsman if the visit to that State is wholly or mainly supported by public funds of the other Contracting State, or a political subdivision or local authority thereof. In such case, the income shall be taxable only in the Contracting State of which the entertainer or sportsman is a resident.

Article 18

Pensions and Annuities

1. Pensions and annuities arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State but the amount of any such pension that would

be excluded from taxable income in the first-mentioned State if the recipient were a resident thereof, shall be exempt from tax in the 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 law of that State. However, in the case of periodic pension payments other than social security benefits, the tax so charged shall not exceed the lesser of:

- a) 15 per cent of the gross amount of the payment; and
- b) the rate determined by reference to 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 him in the year, if he 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 10 per cent of the portion thereof that is subject to tax in that State. However, this limitation does not apply to lump-sum payments arising on the alienation of an interest in 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, 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 therein in respect thereof, shall be taxable only in that other State.

Article 19

Government Service

1.
 - a) Salaries, wages and 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 or similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of that State who:
 - (i) is a national of that State; or

- (ii) did not become a resident of that State solely for the purpose of rendering the services.

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

Article 20

Students

Payments which a student, an apprentice or a 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 21

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 an estate or a trust, other than a trust to which contributions were deductible, the tax so charged shall, provided that 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. TAXATION OF CAPITAL

Article 22

Capital

1. Capital represented by immovable property owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.
2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.
3. Capital represented by ships and aircraft operated by an enterprise of a Contracting State in international traffic and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in that State.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

V. METHODS FOR PREVENTION OF DOUBLE TAXATION

Article 23

Elimination of Double Taxation

1. In the case of Estonia, double taxation shall be avoided as follows:
 - a) Where a resident of Estonia derives income or owns capital which, in accordance with this Convention, may be taxed in Canada, unless a more favourable treatment is provided in its domestic law, Estonia shall allow:
 - (i) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid thereon in Canada;
 - (ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid thereon in Canada.

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

- b)* For the purpose of subparagraph (a), where a company that is a resident of Estonia receives a dividend from a company that is a resident of Canada in which it owns at least 10 per cent of its shares having full voting rights, the tax paid in Canada shall include not only the tax paid on the dividend but also the tax paid on the underlying profits of the company out of which the dividend was paid.

2. 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 Estonia on profits, income or gains arising in Estonia shall be deducted from any Canadian tax payable in respect of such profits, income or gains;
- b)* subject to the existing provisions of the law of Canada regarding the taxation of income from a foreign affiliate and to any subsequent modification of those provisions -- which shall not affect the general principle hereof -- for the purpose of computing Canadian tax, a company which is a resident of Canada shall be allowed to deduct in computing its taxable income any dividend received by it out of the exempt surplus of a foreign affiliate which is a resident of Estonia; and
- c)* where in accordance with any provision of the Convention income derived by a resident of Canada is exempt from tax in Canada, Canada may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

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

VI. SPECIAL PROVISIONS

Article 24

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 which is more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.
3. Nothing in this Article shall be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of a third State, are or may be subjected.
5. In this Article, the term "taxation" means taxes which are the subject of this Convention.

Article 25

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, address to the competent authority of the Contracting State of which he is a resident an application in writing stating the grounds for claiming the revision of such taxation. To be admissible, the said

application must be submitted within two years from the first notification of the action which gives rise to taxation not in accordance with the 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 not in accordance with the Convention.

3. A Contracting State shall not, after the expiry of the time limits provided in its national laws and, in any case, after five years from the end of the taxable period in which the income concerned has accrued, increase the tax base of a resident of either of the Contracting States by including therein items of income which have also been charged to tax in the other Contracting State. This paragraph shall not apply in the case of fraud, wilful default or neglect.

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

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

Article 26

Exchange of Information

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

2. Nothing in paragraph 1 shall be construed so as to impose on a Contracting State the obligation:

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

3. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall endeavour to obtain the information to which the request relates in the same way as if its own taxation were involved. If specifically requested by the competent authority of a Contracting State, the competent authority of the other Contracting State shall endeavour to provide information under this Article in the form requested, such as depositions of witnesses and copies of unedited original documents (including books, papers, statements, records, accounts or writings), to the same extent such depositions and documents can be obtained under the laws and administrative practices of that other State with respect to its own taxes.

Article 27

Diplomatic Agents and Consular Officers

1. Nothing in this Convention shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.
2. Notwithstanding Article 4, an individual who is a member of a diplomatic mission, consular post or permanent mission of a Contracting State which is situated in the other Contracting State or in a third State shall be deemed for the purposes of the Convention to be a resident of the sending State if he is liable in the sending State to the same obligations in relation to tax on his total income as are residents of that sending State.
3. The Convention shall not apply to international organizations, to organs or officials thereof and to persons who are members of a diplomatic mission, consular post or permanent mission of a third State or group of States, being present in a Contracting State and who are not liable in either Contracting State to the same obligations in relation to tax on their total income as are residents thereof.

Article 28

Miscellaneous Rules

1. The provisions of this Convention shall not be construed to restrict in any manner any exemption, allowance, credit or other deduction 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 a Contracting State from imposing a tax on amounts included in the income of a resident of that State with respect to a partnership, trust, or company, in which the person has an interest.

3. Notwithstanding the provisions of any other Article of this Convention, a resident of a Contracting State who, as a consequence of domestic law concerning incentives to promote foreign investment, is not subject to tax or is subject to tax at a reduced rate in that Contracting State on profits, income or gains, shall not receive the benefit of any reduction in or exemption from tax provided for in this Convention by the other Contracting State if the main purpose or one of the main purposes of such resident or person connected with such resident was to obtain the benefits of this Convention.

4. Contributions by an individual who renders dependent personal services in a Contracting State to a pension plan established and recognized for tax purposes in the other Contracting State shall, for a period not exceeding in the aggregate 60 months, be deducted, in the first-mentioned State, in determining the individual's taxable income, and treated in that State, in the same way and subject to the same conditions and limitations, as contributions made to a pension plan that is recognized for tax purposes in that first-mentioned State, provided that:

- a) the individual was not a resident of that State, and was contributing to the pension plan, immediately before he began to exercise employment in that State; and
- b) the pension plan is accepted by the competent authority of that State as generally corresponding to a pension plan recognized as such for tax purposes by that State.

For the purposes of this provision the term "pension plan" means an arrangement in which the individual participates in order to secure retirement benefits payable in respect of the dependent personal services, and a pension plan shall be recognized for tax purposes in a State if contributions to the plan would qualify for tax relief in that State.

5. With respect to paragraph 3 of Article XXII of the General Agreement on Trade in Services, the Contracting States agree that, notwithstanding that paragraph, any dispute between them as to whether a measure relating to a tax to which any provision of this Convention applies 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.

VII. FINAL PROVISIONS

Article 29

Entry into Force

Each of the Contracting States shall notify to the other through the diplomatic channel the completion of the procedures required by law for the bringing into force of this Convention. The Convention shall enter into force on the date of the later of these notifications and shall thereupon have effect:

- a) 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 the year in which the Convention enters into force; and
- b) in respect of other tax for taxable years beginning on or after the first day of January in the calendar year next following the year in which the Convention enters into force.

Article 30

Termination

This Convention shall continue in effect indefinitely but either Contracting State may, on or before June 30 of any calendar year, give to the other Contracting State a notice of termination in writing through diplomatic channels; in such event, the Convention shall cease to have effect:

- a) 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 the year in which the notice is given; and
- b) in respect of other tax for taxable years beginning on or after the first day of January in the calendar year next following the year in which the notice is given.

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

DONE in duplicate at Tallinn, this 2nd day of June 1995, in the English, French and Estonian languages, each version being equally authentic.

**FOR THE GOVERNMENT
OF CANADA**

Michael Mace

**FOR THE GOVERNMENT OF
THE REPUBLIC OF ESTONIA**

Mart Opmann