

2. Where one of the States by way of deduction at the source levies a tax on dividends, the right to levy such tax on dividends paid by a company which is a resident of that State to a resident of the other State, is not affected by the first paragraph of this article, but the rate of tax shall in that case not exceed 15 per cent. In case either of the States introduces into its law for the tax mentioned a rate exceeding 15 per cent, such State may terminate the limitation of the rate of tax to 15 per cent by giving written notice of termination to the other State through diplomatic channels on or before the thirtieth day of June in any year after the year in which this Convention comes into force. In such event, this limitation shall cease to be effective on and after the first day of January in the year next following that in which such notice is given.

#### ARTICLE 8

1. Any interest derived from one of the States by a resident of the other State shall be subject to tax only in the latter State.

2. Where one of the States by way of deduction at the source levies a tax on interest, the right to levy such tax on interest derived from sources within that State by a resident of the other State, is not affected by the first paragraph of this article, but the rate of tax shall in that case not exceed 15 per cent. In case either of the States introduces into its law for the tax mentioned a rate exceeding 15 per cent, such State may terminate the limitation of the rate of tax to 15 per cent by giving written notice of termination to the other State through diplomatic channels on or before the thirtieth day of June in any year after the year in which this Convention comes into force. In such event this limitation shall cease to be effective on and after the first day of January in the year next following that in which such notice is given.

#### ARTICLE 9

1. Royalties—other than royalties to which Article 3 of this Convention applies—derived from one of the States by a

resident of the other State shall be subject to tax only in the latter State.

2. Where one of the States by way of deduction at the source levies a tax on royalties derived from sources within that State by a resident of the other State, it is not affected by the first paragraph of this article, but the rate of tax shall in that case not exceed 15 per cent.

#### ARTICLE 17

The items of the income not mentioned in the foregoing articles of this Convention shall be subject to tax only in that State, of which the tax payer is considered to be a resident.

#### ARTICLE 18

1. Each of the States, when imposing tax on its residents, may include in the basis upon which such taxes are imposed the items of income, which according to the provisions of the present Convention may be taxed by the other State.

2. Without prejudice to the application of the provisions concerning the compensation of losses in the unilateral regulations for the avoiding of double taxation, the Netherlands shall allow a deduction from the amount of tax computed in conformity with the first paragraph of this article equal to such part of that tax which bears the same proportion to the aforesaid tax as the amount of the income which is taxable in Canada according to the Articles 3, 4, 5, 10, 11 and 14 of this Convention bears to the amount of income, which forms the basis meant in the first paragraph of this article.

3. As far as may be in accordance with the provisions of the Income-Tax Act, Canada agrees to allow as a deduction from Canadian tax on any income derived from sources within the Netherlands the appropriate amount of Netherlands tax paid thereon.



## ARTICLE 19

1. The competent authorities of the States will upon request exchange information of a fiscal nature which is available to them under their own legislation and which would be useful to assure the regular assessment and collection of the taxes referred to in this Convention, as well as the application with respect to those taxes, of the legal provisions relative to the prevention of fiscal fraud. The information so exchanged shall retain its secret nature and shall not be disclosed to persons other than those charged with assessment and collection of the taxes referred to in this Convention.

2. The provisions of this article shall not in any case be considered requiring one of the States to disclose to the other State information the furnishing of which would involve the disclosure of industrial, commercial or professional secrets or trade processes.

## FINLAND AND SWEDEN

**Agreement for the Avoidance of Double Taxation with respect to Taxes on Income and Property (Stockholm, 21 December 1949)**

## ARTICLE 3

Unless otherwise provided in the present Agreements, income and property shall be taxable only in the contracting State in which the tax payer is deemed to be domiciled.

## ARTICLE 4

Income from immovable property shall be taxable only in that one of the two States in which such property is situate.

## ARTICLE 5

Income from undertakings or occupations derived from a permanent business establishment situate in one of the two States shall be taxable only in that State. If permanent business establishments are situate in both States, each State shall tax that portion of the income which is derived from the establishment situate within its own territory.

## ARTICLE 6

For purposes of taxation, royalties in respect of the utilization of immovable property shall be deemed to be on the same basis as income from immovable property. Royalties in respect of the operation of mines or other mineral deposits which are immovable property, shall be taxable in that State where the mines or mineral deposits are situate.

Other royalties shall be taxable in that State where the recipient of the income is deemed to be domiciled; however, royalties derived from undertakings carried on by the recipient, shall be taxable on the same basis as income from the undertaking in question.

## ARTICLE 7

Income from shipping or air navigation undertakings, the effective centre of management of which is in the territory of one of the two States, shall be taxable only in that State.

## ARTICLE 9

With regard to dividends from shares, each State reserves the right (subject to the applicable provisions of its revenue laws) to collect and retain the taxes which, under its revenue laws, are deductible at the source, but not in excess of 10 per cent of the gross amount of such dividends.

If the deduction is made in either of the two States under the provisions of the first paragraph, the other State shall grant a special deduction in the State tax on income accruing from dividends, owing to the fact that the first-mentioned State deducted the tax at the source; this deduction shall not be less than 5 per cent of the gross amount of the dividends.

## ARTICLE 10

Capital, consisting of immovable property (including appurtenances and live-stock and equipment in farming or forestry) in any one of the two States, shall be taxable only in that State.



Capital invested in undertakings or works shall be taxable only in that State which is entitled under the provisions of the present Agreement to tax the income from such capital.

#### NEW ZEALAND—SWEDEN

#### Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income.

(Signed at Wellington, on 16 April, 1956)

#### ARTICLE 20

1. The competent authorities of the contracting Governments will exchange information of a fiscal nature which is available to them, or which they are able to obtain under their own legislation and which would be useful to assure the regular assessment and collection of the taxes referred to in this Convention, as well as the application with respect to those taxes of the legal provisions relating to the prevention of fiscal fraud.

#### UNITED KINGDOM AND UNITED STATES OF AMERICA

#### Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America for the avoidance of Double Taxation and the prevention of Fiscal Evasion with respect to Taxes on Income

\* \* \*

#### ARTICLE V

1. Notwithstanding the provisions of Articles III and IV of the present Convention, profits which an individual (other than a citizen of the United States) resident in the United Kingdom or a United Kingdom corporation derives from operating ships documented or aircraft registered under the laws of the United Kingdom, shall be exempt from United States tax.

2. Notwithstanding the provisions of Articles III and IV of the present Convention, profits which a citizen of the United States not resident in the United Kingdom or a United States corporation derives from operating ships documented or aircraft registered under the laws of the United States, shall be exempt from United Kingdom tax.

#### ARTICLE VI

1. The rate of United States tax on dividends derived from a United States corporation by a resident of the United Kingdom who is subjected to United Kingdom tax on such dividends and not engaged in trade or business in the United States shall not exceed 15 per cent : Provided that such rate of tax shall not exceed 5 per cent, if such resident is a corporation controlling, directly or indirectly, at least 95 per cent of the entire voting power in the corporation paying the dividend, and not more than 25 per cent of the gross income of such paying corporation is derived from interest and dividends, other than interest and dividends received from its own subsidiary corporations. Such reduction of the rate to five per cent shall not apply if the relationship of the two corporations has been arranged or is maintained primarily with the intention of securing such reduced rate.

#### ARTICLE IX

1. The rate of United States tax on royalties in respect of the operation of mines or quarries or of other extraction of natural resources, and on rentals from real property or from an interest in such property, derived from sources within the United States by a resident of the United Kingdom who is subject to United Kingdom tax with respect to such royalties or rentals and not engaged in trade or business in the United States, shall not exceed 15 per cent : Provided that any such resident may elect for any taxable year to be subject to United States tax as if such resident were engaged in trade or business in the United States.



2. Royalties in respect of the operation of mines or quarries or of other extraction of natural resources, and rentals from real property or from an interest in such property, derived from sources within the United Kingdom by an individual who is (a) a resident of the United States, (b) subject to United States tax with respect to such royalties and rentals, and (c) not engaged in trade or business in the United Kingdom, shall be exempt from United Kingdom surtax.

### ARTICLE XIII

1. Subject to Section 901 of the United States Internal Revenue Code as in effect on the 1st day of January 1956, United Kingdom tax shall be allowed as a credit against United States tax. For this purpose

(a) the recipient of a dividend paid by a corporation which is a resident of the United Kingdom shall be deemed to have paid the United Kingdom tax appropriate to such dividend, and

(b) the recipient of any royalty or other amount coming within the scope of Article VIII of the present Convention shall be deemed to have paid any United Kingdom tax legally deducted from the royalty or other amount by the person by or through whom any payment thereof is made, if the recipient of the dividend or royalty or other amount, as the case may be, elects to include in his gross income for the purposes of United States tax the amount of such United Kingdom income-tax.

2. Subject to such provisions (which shall not affect the general principle hereof) as may be enacted in the United Kingdom, United States tax payable in respect of income from sources within the United States shall be allowed as a credit against any United Kingdom tax payable in respect of that income. Where such income is an ordinary dividend paid by a United States corporation, such credit shall take into account

(in addition to any United States income tax deducted from or imposed on such dividend) the United States income tax imposed on such corporation in respect of its profits, and where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits, such tax on profits shall likewise be taken into account in so far as the dividend exceeds such fixed rate.

### UNITED KINGDOM-CANADA

**Agreement between the Government of the United Kingdom and the Government of Canada for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with respect to Taxes on income**

### ARTICLE IV

Notwithstanding the provisions of Articles III and IV, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

### ARTICLE VI

1. The rate of Canadian tax on income (other than earned income) derived from sources within Canada by a resident of the United Kingdom who is subject to United Kingdom tax in respect thereof and not engaged in trade or business in Canada through a permanent establishment situated therein, shall not exceed 15 per cent.

2. Notwithstanding the provisions of the foregoing paragraph dividends paid to a company which is a resident of the United Kingdom by a Canadian company, all of whose shares (less directors' qualifying shares) which have under all circumstances full voting rights are beneficially owned by the former company, shall be exempt from Canadian tax.

Provided that exemption shall not be allowed if ordinarily more than one-quarter of the gross income of the Canadian



company is derived from interest and dividends other than interest and dividends from any wholly-owned subsidiary company.

#### ARTICLE XIII

1. Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom, Canadian tax payable in respect of income from sources within Canada shall be allowed as a credit against any United Kingdom tax payable in respect of that income. Where such income is an ordinary dividend paid by a Canadian debtor, the credit shall take into account (in addition to any Canadian income-tax chargeable directly or by deduction in respect of the dividend) the Canadian income-tax payable in respect of its profits by the company paying the dividend, and where it is a dividend paid on participating preference shares and representing both a dividend at a fixed rate to which the shares are entitled and an additional participating in profits, the Canadian income tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

2. For the purposes of the foregoing paragraph and of the aforesaid provisions of the law of the United Kingdom, so much of the tax chargeable under the law of Canada relating to excess profits tax as is chargeable otherwise than by reference to excess profits shall be treated as income tax and not as excess profits tax.

3. Subject to the provisions of the law of Canada regarding the deduction from tax payable in Canada or tax paid in a territory outside Canada, United Kingdom tax payable in respect of income from sources within the United Kingdom shall be deducted from any Canadian tax payable in respect of that income. Where such income is an ordinary dividend paid by a company resident in the United Kingdom, the deduction shall take into account (in addition to any United Kingdom income-tax appropriate to the dividend) the United Kingdom

national defence contribution payable by the company in respect of its profits, and where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits, the national defence contribution so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.



### (III). QUESTIONNAIRE PREPARED BY THE UNITED NATIONS ON "DIRECT TAXES IN RESPECT OF FOREIGN NATIONALS' ASSETS AND LIABILITIES"

(Resolution 67 (V) of the Economic and Social Council, dated 24.7.1947)

#### Introductory

*Question* Definitions of terms, as used in current tax laws.

a. Residence and domicile

- (1) Are these terms used interchangeably in current domestic tax law?

*Question* If so :

- (a) Is a person's residence and domicile in a country dependent on one or more of the following criteria;
- i. the length of stay in a certain place;
  - ii. his place of birth or his citizenship ;
  - iii. his principal place of sojourn or business ;
  - iv. his intention to remain, or return to, the country in question ;
  - v. any other criteria.
- (b) Do different rules apply to determine foreign, as against domestic, residence or domicile?

*Question* Nationality of Legal entities:

- (1) Are legal entities considered nationals, if:
- (a) They are organised in, or under the laws of, the country.

- (b) Their centre of management, or of business activities or their legal domicile is located in the country ;
- (c) Nationals or residents of the country own or control, directly or indirectly, part or total of its stock or management ;
- (d) Any other conditions are present.

*Question* What are the conditions under which nationality is attached to:

- (a) Ships
- (b) Aircraft.

#### Questionnaire

*Question* a. Structure and underlying principles of income-tax system

1. Are there :

- (a) Schedular taxes only, levied separately, for specific income categories, on:
- (1) all nationals with regard to income ;
    - i. both from domestic and foreign sources,
    - ii. from domestic sources only.
  - (2) all residents with regard to income ;
    - i. both from domestic and foreign sources ;
    - ii. from domestic sources only ;
  - (3) non-residents with regard to income from domestic sources only.
- (b) A global tax on the total income only :
- (1) of all nationals with-regard to income ;
    - i. both from domestic and foreign sources ;



- ii. from domestic sources only ;
- (2) of all residents.
  - i. both from domestic and foreign sources ;
  - ii. from domestic sources only ;
- (3) of non-residents from domestic sources.

**Question b. Income from real property**

1. In what manner, and to what extent does the imposition of such tax depend on one or more of the following criteria :
  - (a) The nationality or domicile of the lessee or owner ;
  - (b) The location of the property or of the instrument representing it (deed, lease etc.).

**Question 2. Do special rules apply to :**

- (a) Income from agriculture and livestock - raising ;
- (b) Income received from the use of real property by the owner, lessee, administrator ;
- (c) Income received from the lease of real property ;
- (d) Income received from the exploitation of certain parts or appurtenances of property (royalties, water rights, rights of way etc) ;
- (e) Any other kind of income from real property, or any special tax imposed on such income.

**Question c. Income from royalties on natural resources such as mines, quarries, oil wells and other natural deposits (unless taxed as income from real property)**

1. In what manner and to what extent does the taxation of royalties on natural resources depend on one or more of the following criteria :
  - (a) The nationality or domicile of the payee or payer ;
  - (b) The physical location of the natural resources in question ;
  - (c) The place where the natural resources is used (as in the case where ore is extracted from a mine located in one country by the royalty debtor or on his behalf, and then smelted in another country by the royalty debtor or on his behalf).

**Question d. Income from mortgages on real property, ships or aircraft (including mortgage lands, if they are considered as interests in realty, rather than as securities).**

1. In what manner and to what extent does the taxation of such income depend on one or more of the following criteria :
  - (a) The nationality or domicile of the mortgagee or mortgagor ;
  - (b) The location of the mortgaged property ;
  - (c) The registry or principal place of use of the mortgaged ship or aircraft ;
  - (d) The place of registration of the mortgage 'if different from (b) and (c).

**Question e. Business profits**

1. In what manner and to what extent does the taxation of business profits (i. e. income derived from



carrying on industrial or commercial activities, including agricultural enterprises, which is not covered by any other income category listed in this questionnaire) depend on :

- a. The nationality or domicile of the person or legal entity receiving profits;
- b. The location of the business activity from which the profits are derived.

*Question 2.* Are national enterprises taxed on their profits from :

- a. All their business activities, domestic and foreign;
- b. Their business activities in a foreign country only insofar as ;
  - (1) they are isolated or occasional ;
  - (2) they are carried on through an independent agent ;
  - (3) they are not carried on through a "permanent establishment" to be hereinafter defined.

*Question 3.* Are foreign enterprises taxed on their profits:

- a. From all their business activities, domestic and foreign, if;
  - (1) they carry on isolated or occasional business activities within the country ;
  - (2) they maintain an independent agent within the country;
  - (3) they otherwise do business (maintain a "permanent establishment", "carry on trade" etc.) within the country.

- b. Attributable to their domestic business transactions only.

*Question 4.* What constitute a "permanent establishment", "doing business" or "carrying on trade" in the meaning of 1 (b) (3) and 2 (b) (3) :

- a. The maintenance of a fixed place of business of any kind within the country, such as physical plant (factory, oil well, mine, quarry, plantation, warehouse, dock, landing field) or a buying or contracting office ;
- b. The presence in the country of a permanent employed representative ;
- c. The occasional presence in the country of an agent or travelling salesman;
- d. The existence in the country of a subsidiary company whose business relations with the foreign parent company are solely of a financial character (control of stock, payment of dividends etc.) ;
- e. What supplementary factors not hereinabove listed enter into the definition of having a "permanent establishment", "doing business", or "carrying on trade" in the country or abroad.

*Question 5.* Where a business enterprise is taxed only on certain items, parts or categories of its domestic or foreign activities, how are its taxable and non-taxable profits apportioned;

- a. A percentage of the total profits (or of the total domestic or foreign profits) of the enterprises (fractional apportionment) corresponding to the proportion of :



- (1) the taxable business activities to the entire business of the enterprise : if so how is this apportionment calculated, especially as to the division of the overhead of the central office ;
- (2) the value of the physical plant taxed in the taxable business to the value of the entire plant of the enterprise;
- (3) the turnover of gross receipts, payroll, circulating capital etc. of the taxable activity to that of the entire enterprise ;
- b. The actual profits of the taxable business activity, considered as a separate entity :
  - (1) as assigned to it on the books of the enterprise ;
  - (2) as determined by the revenue authorities, either through presumptions (*methode for faire*), or through consideration of the taxable activity for taxing purposes, as an independent enterprise substituting for the prices, fees, salaries etc. carried on in its books those which would have prevailed between independent enterprises dealing at arm's length;
- c. Any other method or criteria.

Question 6. Do special rules apply to :

- a. Enterprises operating wholly or in part in a possession, colony, mandate or other territory under the jurisdiction of the country, but subject to a different legal regime from that of the metropolitan territory;
- b. Enterprises operating wholly or in part in a certain foreign country and having, by

reason of doing business there, subject to a different tax regime from enterprises operating in other foreign countries ;

- c. Particular categories of enterprises such as financial institutions (e. g., banks, insurance companies), international transport and communication enterprises (e. g., air and sea navigation (foreign or coastwise), motor, rail, radio, telegraph, telephone, cable) public service companies (e.g. gas, electricity, water), mining industries, personal holding companies, moving picture producers and distributors ;
- d. Business profits collected through an agent, trustee, representative broker, or other conduit or intermediary ;
- e. Business enterprises owned or controlled by a domestic or foreign agency.

Question 7. Are there any cases in which the same type of business profits is subjected to a different tax treatment depending on the nationality or domicile of the enterprise, or the location of the property, or the origin of the income involved. If so, do there difference concern:

- a. The taxability as such ;
- b. The tax rates ;
- c. The permissible allowances or deductions ;
- d. The collection of the tax at the source or from the recipient of the profit ;
- e. The method of the tax assessment (e. g., presumption assessment as against assessment on the basis of tax returns) ;