

# CONVENTION

*between*

THE GOVERNMENT  
OF THE  
REPUBLIC OF VENEZUELA

*and*

THE GOVERNMENT OF BARBADOS

*for*

*The Avoidance of Double Taxation and the  
Prevention of Fiscal Evasion with  
Respect to Taxes on Income*

**CONVENTION BETWEEN THE GOVERNMENT OF  
THE REPUBLIC OF VENEZUELA AND THE  
GOVERNMENT OF BARBADOS FOR THE  
AVOIDANCE OF DOUBLE TAXATION  
AND THE PREVENTION OF FISCAL  
EVASION WITH RESPECT TO  
TAXES ON INCOME**

The Government of Venezuela and the Government of Barbados, 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:

**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. The existing taxes to which this Convention shall apply are:
  - (a) in Venezuela:
    - (i) income tax; and
    - (ii) tax on business assets.(hereinafter referred to as "Venezuela tax").
  - (b) in Barbados:
    - (i) income tax (including premium income tax);
    - (ii) corporation tax (including the tax on branch profits); and
    - (iii) petroleum winning operations tax.(hereinafter referred to as "Barbados tax").

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

### Article 3

#### *General Definitions*

1. For the purposes of this Convention, unless the context otherwise requires:
  - (a) the term "Venezuela" means the Republic of Venezuela;
  - (b) the term "Barbados" means the island of Barbados and the territorial waters thereof, including any area outside such territorial waters which in accordance with international law and the laws of Barbados is an area within which the rights of Barbados with respect to the seabed and subsoil and their natural resources may be exercised;
  - (c) the term "person" includes an individual, an estate, a trust, a partnership, a company and any other body of persons;
  - (d) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
  - (e) the terms a "Contracting State" or "the other Contracting State" mean Venezuela or Barbados as the context requires;
  - (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 "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

- (h) the term "national" means any individual who is a citizen of a Contracting State, and any legal person, partnership and association or other entity deriving its status as such from the laws in force in a Contracting State;
- (i) the term "competent authority" means:
  - (i) in Venezuela, the Superintendent of the Integrated National Service of Tax Administration (Servicio Nacional Integrado de Administracion Tributaria – SENIAT), his authorized representative or the authority which is designated by the Minister of Finance as a competent authority for the purposes of the Convention;
  - (ii) in Barbados, the Minister of Finance or his authorized representative.

2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the tax 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) in the case of Venezuela, any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature and also includes any resident person or company subject to the Venezuelan territorial system of taxation, the Republic of Venezuela or a political subdivision thereof or any agency or instrumentality of any such Republic, subdivision or authority.
- (b) in the case of Barbados, any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

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

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

3. Where by reason of the provisions of paragraph 1, a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement and determine the mode of application of the Convention to such person. If they are unable to make such a determination, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

## Article 5

### *Permanent Establishment*

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

2. The term "permanent establishment" includes especially:
- (a) a place of management;
  - (b) a branch;
  - (c) an office;

- (d) a factory;
- (e) a workshop;
- (f) a mine, or oil or gas well, a quarry or any other place of extraction of natural resources; and
- (g) a building site or construction or installation project but only if it lasts more than six months from the effective beginning of the works.

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

- (a) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of 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 sub-paragraphs (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.

4. 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 in the name of the enterprise, that enterprise

shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 3 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.

5. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 6 applies.

6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that 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 State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

## Article 6

### *Income from Immovable Property*

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

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

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

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

#### **Article 7**

##### *Business Profits*

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to (a) that permanent establishment; or (b) sales in the other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment.

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

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including a reasonable allocation of executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere, which are allowed under the provisions of the domestic law of the Contracting State in which the permanent establishment is situated. However, no such deduction shall be allowed in respect of the amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise no account shall be taken in the determination of the profits of a



permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise by way of interest or moneys lent to the head office of the enterprise or any of its other offices.

4. Insofar as the internal legislation of a Contracting State allows to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment; 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 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 purpose of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. 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**

### *Transportation Income*

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

2. The provisions of paragraph 1 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 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 national laws and in any case, after five years from the end of the year in 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, 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 the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

- (a) 5 percent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 5 percent of the capital of the company paying the dividends;
- (b) 10 percent 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. The term, "dividends" as used in this Article means income from shares, or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights 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 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 to the company's undistributed

profits to a tax on the company's 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. Where a company, which is a resident of a Contracting State having permanent establishment in the other Contracting State, derives profits or income from that permanent establishment, any remittances of such profits or income by the permanent establishment to the company which is a resident of the first-mentioned Contracting State may, notwithstanding any other provisions of the Convention, be taxed in accordance with the law of the other Contracting State, but the rate of tax imposed on such remittance shall not exceed 5 percent, provided that such tax shall not apply to the extent the profits or income remitted have been reinvested in that other Contracting 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 other Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed:

- (a) 5 percent of the amount of the interest in the case of banks;
- (b) 15 percent of the gross amount of the interest in all other cases.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to the Government of the other Contracting State, or any agency or instrumentality thereof, shall be exempt from tax in the first-mentioned Contracting State. For the purposes of this paragraph the term "Government" shall include the Central Bank of Venezuela, the Venezuelan Investment Fund and the Venezuelan Export Financing Fund, the Central Bank of Barbados, and any other similar institution as may be agreed upon from time to time by the competent authorities of the Contracting States.

4. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be exempt from tax in that State if the beneficial owner of the interest is paid with respect to debt obligations that have been principally made, guaranteed or insured, directly or indirectly by that other State or a wholly owned instrumentality thereof.

5. The term "interest" as used in this Article means:

- (a) income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures;
- (b) interest paid in respect of a loan made, guaranteed or insured or a credit extended, guaranteed or insured by a public financial institution or a public entity to promote exports.

Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

6. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

8. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provision 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 other provisions of this Convention.

## Article 12

### *Royalties and Fees for Technical Assistance*

1. Royalties and fees for technical assistance 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 and fees for technical assistance 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 is a resident of the other Contracting State, the tax so charged shall not exceed 10 percent of the gross amount of the royalties or fees for technical assistance, as the case may be.

3. The term "fees for technical assistance" as used in this Convention means payments of any kind to any person in consideration for the rendering of any technical, managerial or consultancy services, if such services make available technical knowledge, experience, skills, know-how, or processes.

4. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematograph films, any patent, trademark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment or for information concerning industrial, commercial or scientific experience. The term "royalties" also includes income derived from the alienation of any such right or property which is contingent on the production or use thereof.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties or fees for technical assistance, being a resident of a Contracting State carries on business in the other Contracting State in which the royalties or fees for technical assistance 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 or fees for technical assistance are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. 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, or fees for technical assistance, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such

relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

### Article 13

#### *Capital Gains*

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

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains derived by a resident 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 from the alienation of shares or other rights in a company which assets principally, directly or indirectly, consist of immovable property situated in a Contracting State or rights pertaining to such immovable property, may be taxed in that State.

5. Gains from the alienation of shares that represent a participation of more than 10 percent of the stock of a company resident in a Contracting State may be taxed in that State.

6. Gains from the alienation of any property other than that referred to in the paragraphs mentioned above, shall be taxable only in the Contracting State of which the alienator is a resident.

## Article 14

### *Independent Personal Services*

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State. However, such income may also be taxed in the other Contracting State if:

- (a) the individual has a fixed base regularly available to him in that other State for the purpose of performing his activities, but only so much thereof as is attributable to that fixed base;
- (b) the individual is present in that other State for a period or periods exceeding in the aggregate 183 days within any 12-month period, but only so much thereof as is attributable to services performed in that State; or
- (c) the remuneration for his activities in the other Contracting State is paid by or on behalf of a resident of the other Contracting State or is borne by a permanent establishment or a fixed base situated in that Contracting State and exceeds in the fiscal year a gross amount equivalent to US\$20 000.

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

## Article 15

### *Dependent Personal Services*

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



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

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

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by a resident of a Contracting State may be taxed in that other 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 any other similar body 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 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 paragraphs 1 and 2 shall not apply to income derived from activities performed in a Contracting State by entertainers or sportsmen if the visit to that State is substantially supported by public funds of the other Contracting State or a political subdivision or a local authority thereof. In such a case the income shall be taxable only in the State of which the entertainer or sportsman is a resident.

#### **Article 18**

##### *Pensions*

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of the Contracting State in consideration of past employment shall be taxable only in that State.

#### **Article 19**

##### *Government Service*

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

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

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

2. Any pension paid by, or out of funds created 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.

3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions 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.

4. The provisions of paragraph 1 shall also apply to remuneration paid by a Contracting State to an individual in respect of an activity exercised in the

other Contracting State within the framework of cooperation agreements concluded between both Contracting States.

#### **Article 20**

##### *Professors, Teachers and Students*

1. Any remuneration paid to professors and other teachers who are residents of a Contracting State and who are temporarily present in the other Contracting State for the purpose of teaching or carrying on scientific research at a university or other officially recognized educational institution shall be exempt from tax in that other Contracting State for a period not exceeding two years from the date of his arrival in that other State.

2. Payment 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 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. Items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention shall be taxable only in that State. However, if such income is derived from sources in the other Contracting State, it may also be taxed in that other State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State 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 income 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.

## Article 22

### *Relief from Double Taxation*

1. In the case of Venezuela, subject to the provisions of the law of Venezuela, double taxation shall be eliminated, as follows:

- (a) where a resident of Venezuela receives income which according to the provisions of this Convention may be taxed in Barbados, that income shall be exempted from Venezuela tax;
- (b) if, under the laws of Venezuela, a resident of Venezuela is subject to taxation in Venezuela on worldwide income the provisions of sub-paragraph (a) of this paragraph shall not apply and double taxation shall be eliminated in accordance with sub-paragraphs (c), (d), (e) and (f) of this paragraph;
- (c) where a resident of Venezuela derives income which in accordance with the provisions of this Convention, may be taxed in Barbados, Venezuela shall allow as a deduction from the Venezuela tax on the income of that resident, an amount equal to the income tax paid in Barbados;
- (d) the deduction allowed under sub-paragraph (c) of this paragraph shall not exceed that part of the Venezuelan income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Barbados;
- (e) where in accordance with any provision of this Convention income derived by a resident of Venezuela is exempt from tax in Venezuela, Venezuela may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income;
- (f) for the purposes of the deduction referred to in sub-paragraph (c) above with respect to income covered by Article 11 or 12, the term "tax paid in Barbados" shall be deemed to include any amount which would have been payable as Barbados tax under the laws of Barbados and in accordance with this Convention for any year, but for an exemption from, or reduction of tax granted for that year under the provisions of the Hotel Aids Act (Cap. 72) and the Fiscal Incentives Act (Cap. 71A) or any other relevant provision which may subsequently be made

granting an exemption or reduction of tax which is agreed by the competent authorities of the Contracting States to be of a substantially similar character.

2. In the case of Barbados, double taxation shall be eliminated as follows:

(a) Subject to the provisions of the laws of Barbados regarding the allowance as a credit against Barbados tax of tax payable in a territory outside Barbados (which shall not affect the general principle hereof):

(i) Venezuela tax payable under the laws of Venezuela and in accordance with the Convention, whether directly or by deduction, on profits or income from sources within Venezuela (excluding, in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any Barbados tax computed by reference to the same profits or income by reference to which the Venezuela tax is computed;

(ii) in the case of dividend paid by a company which is a resident of Venezuela to a company which is a resident of Barbados and which holds directly at least 5 percent of the capital of the company paying the dividend, the credit shall take into account (in addition to any Venezuelan tax creditable under paragraph (a)(i) the Venezuelan tax payable by the company paying the dividend in respect of the profits out of which such dividend is paid).

(b) The credit, however, shall in no case exceed the part of the tax, as computed before the credit is given, which is appropriate to the income which may be taxed in Venezuela.

### **Article 23**

#### *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 other or 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. This provision shall not 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.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 12, 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.

4. The provisions of paragraph 2 shall not be construed to prevent Barbados from applying its tax on branch profits.

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 other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

6. This Article shall apply to taxes which are the subject of the Convention.

#### **Article 24**

##### *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, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to

resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention.

3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States shall agree on administrative measures necessary to carry out the provisions of the Convention and particularly on the proofs to be furnished by residents of either Contracting State in order to benefit in the other State from the exemptions or reductions in tax provided for in the Convention.

5. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

## Article 25

### *Exchange of Information*

1. The competent authorities of the Contracting States shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention, in particular for the prevention of fraud or evasion of such taxes. The exchange of information shall not be 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 or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. The competent authorities may, through consultation, develop appropriate conditions, methods

and techniques concerning the matters in respect of which such exchanges of information shall be made including, where appropriate, exchanges of information regarding tax avoidance.

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

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

#### **Article 26**

##### *Diplomatic Agents and Consular Officers*

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.

#### **Article 27**

##### *Entry into Force*

1. The Contracting States shall notify each other that the constitutional requirements for the entry into force of this Convention have been complied with.

2. The Convention shall enter into force thirty days after the date of the latter of the notifications referred to in paragraph 1 and its provisions shall have effect:

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



- (b) in respect of other taxes, on income or profits derived on or after the first day of January in the calendar year in which the Convention enters into force.

#### Article 28

##### *Termination*

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

- (a) in respect of taxes withheld at source on amounts paid or remitted to non-residents on or after the first day of January next following the notice of termination; and
- (b) in respect of other taxes, on income or profits derived in any income year beginning on or after the first day of January next following the notice of termination.

In witness whereof the undersigned being duly authorized thereto have signed the present Convention and have affixed thereto their seals.

Done at Bridgetown this eleventh day of December, 1998 in duplicate in the Spanish and English languages, both texts being equally authentic.

For the Government of Venezuela

For the Government of Barbados



Miguel Angel Burelli Rivas  
Minister of Foreign Affairs



Billie Antoinette Miller  
Deputy Prime Minister  
Minister of Foreign Affairs

## **PROTOCOL**

At the moment of signing this Convention this day concluded between the Government of the Republic of Venezuela and the Government of Barbados for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on Income, the undersigned have agreed upon the following provisions which shall be an integral part of the Convention.

### **Ad. Article 4**

It is understood that if Venezuela changes its present territorial tax system to a world-wide system of taxation, paragraph 1 of Article 4 will be replaced as follows:

The term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. 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.

### **Ad. Article 23**

In case of Venezuela, paragraph 3 of Article 23, would only be applied if Venezuela changes its territorial tax system to a world-wide system of taxation. Meanwhile, for the purpose of the determination of the taxable profits of an enterprise, interest, royalties and other disbursements may be deducted in the same terms and conditions as if they had been incurred by a resident enterprise.

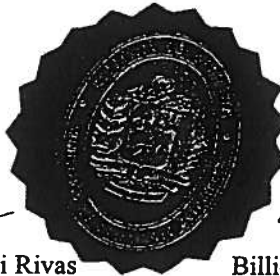
IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Protocol.


Done at Bridgetown this eleventh day of December, 1998 in duplicate in the Spanish and English languages, both texts being equally authentic.

For the Government of Venezuela

For the Government of Barbados

  
Miguel Angel Burelli Rivas  
Minister of Foreign Affairs



  
Billie Antoinette Miller  
Deputy Prime Minister  
Minister of Foreign Affairs