

PROTOCOL

BETWEEN THE KINGDOM OF SPAIN AND CANADA AMENDING THE CONVENTION BETWEEN SPAIN AND CANADA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL SIGNED AT OTTAWA ON 23 NOVEMBER 1976

The Kingdom of Spain
and
Canada,

desiring to amend the *Convention between Spain and Canada for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital*, signed at Ottawa on 23 November 1976 (hereinafter referred to as the "Convention"),

have agreed as follows:

ARTICLE 1

Paragraph 3 of Article II (Taxes Covered) of the Convention shall be deleted and replaced by the following paragraph:

“3. The existing taxes to which this Convention shall apply are in particular:

- a) in Spain:
 - (i) the income tax on individuals;
 - (ii) the corporation tax;
 - (iii) the income tax on non residents;
 - (iv) local taxes on income; and
 - (v) the capital tax;

(hereinafter referred to as “Spanish Tax”);

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

ARTICLE 2

1. Subparagraph i) of paragraph 1 of Article III (General Definitions) of the Convention shall be deleted and replaced by the following subparagraph:

“i) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when such transport is solely between places in the other Contracting State;”

2. Paragraph 1 of Article III (General Definitions) of the Convention shall be amended by adding the following subparagraphs:

“j) the term “enterprise” applies to the carrying of any business;

k) the term “business” includes the performance of professional services and of other activities of an independent character.”

ARTICLE 3

Paragraphs 3 and 4 of Article IV (Fiscal Domicile) of the Convention shall be deleted and replaced by the following paragraph:

“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 determine by mutual agreement the State of which the person shall be deemed to be a resident, having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. If the competent authorities are unable to determine the matter by mutual agreement, they shall endeavour to determine by mutual agreement the mode of application of this Convention to that person.”

ARTICLE 4

Paragraph 3 of Article IX (Associated Enterprises) of the Convention shall be deleted and replaced by the following paragraphs:

“3. A Contracting State shall not change the income of an enterprise in the circumstances referred to in paragraph 1 after the expiry of the time limits provided in its domestic laws and, in any case, after eight years from the end of the taxation period in which the income that would be subject to such change would, but for the conditions referred to in paragraph 1, have been attributed to that enterprise.

4. The provisions of paragraphs 2 and 3 shall not apply in the case of fraud, wilful default or when a Contracting State applies anti-abuse rules.”

ARTICLE 5

1. Paragraph 2 of Article X (Dividends) of the Convention shall be deleted and replaced by the following paragraph:

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

- a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least per 10 cent of the capital of the company paying the dividends;
- b) 15 per cent of the gross amount of the dividends in all other cases.

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

2. Paragraph 6 of Article X (Dividends) of the Convention shall be deleted and replaced by the following paragraph:

“6. Notwithstanding any other provision of this Convention, where a company which is a resident of a Contracting State has a permanent establishment in the other Contracting State, any profits attributable to the permanent establishment that are repatriated may be taxed in accordance with the laws of the other Contracting State, but the rate of tax imposed on such repatriated profits shall not exceed 5 per cent.”

3. Article X (Dividends) of the Convention shall be amended by adding the following paragraphs:

“7. Nothing in this Convention shall be construed as preventing a Contracting State from imposing on the income from the alienation of immovable property situated in that State by a company that is a resident of the other Contracting State carrying on a trade in immovable property, a tax in addition to the tax that would be chargeable on the income of a company that is a resident of the first-mentioned State, but any additional tax so imposed shall not exceed 5 per cent of the amount of such income. For the purpose of this provision, the term "income" means the income from the alienation of such immovable property situated in a Contracting State as may be taxed by that State under the provisions of paragraph 1 of Article XIII, after deducting therefrom all taxes, other than the additional tax referred to herein, imposed on such income in that State.

8. Notwithstanding the provisions of paragraph 2, dividends arising in a Contracting State and paid to a pension or retirement plan of the other Contracting State shall be exempt from tax in the first-mentioned State if:

- a) the pension or retirement plan is the beneficial owner of the shares on which the dividends are paid and holds those shares as an investment;
- b) the pension or retirement plan does not own directly or indirectly more than 5 per cent of the capital or 5 per cent of the voting stock of the company paying the dividends; and
- c) the class of shares of the company on which the dividends are paid is regularly traded on an approved stock exchange.

9. For the purposes of paragraph 8,

- a) the term "approved stock exchange" means:
 - (i) in the case of dividends arising in Canada, a Canadian stock exchange prescribed or designated for the purposes of the *Income Tax Act*;

- (ii) in the case of dividends arising in Spain, a regulated market referred to in Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments; and
 - (iii) any other stock exchange agreed to in letters exchanged between the competent authorities of the Contracting States;
- b) the term "pension or retirement plan" means:
- (i) in Canada, a trust, a company, organisation or other arrangement that was constituted and is operated in Canada exclusively to administer or provide pension or retirement benefits and is generally exempt from income taxation in a taxable year in Canada; and
 - (ii) in Spain, any scheme, fund, mutual benefit institution or other entity established and operated in Spain exclusively to manage the right of its beneficiaries to receive income or capital upon retirement, survivorship, widowhood, orphanhood, or disability, and contributions to which are eligible for tax benefits in the form of reductions in the taxable base of personal taxes.”

ARTICLE 6

1. Paragraph 2 of Article XI (Interest) of the Convention shall be deleted and replaced by the following paragraph:

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

2. Paragraph 7 of Article XI (Interest) of the Convention shall be deleted and replaced by the following paragraphs:

“7. Notwithstanding the provisions of paragraph 2:

- a) interest arising in a Contracting State and paid to a resident of the other Contracting State shall not be taxable in the first-mentioned Contracting State if the beneficial owner of the interest is a resident of the other Contracting State and is dealing at arm’s length with the payer;
- b) interest arising in Spain and paid to a resident of Canada shall be taxable only in Canada if it is paid in respect of a loan made, guaranteed or insured, or a credit extended, guaranteed or insured by Export Development Canada; and
- c) interest arising in Canada and paid to a resident of Spain shall be taxable only in Spain if it is paid in respect of a loan, debt-claim or credit that is owed to, or made, provided, guaranteed or insured by Spain or a political subdivision, local authority or export financing agency thereof, provided the loan, debt claim or credit is in respect of exports.

8. Paragraph 7 a) shall not apply where all or any portion of the interest is paid or payable on an obligation that is contingent or dependent on the use of or production from property or is computed by reference to revenue, profit, cash flow, commodity price or any other similar criterion or by reference to dividends paid or payable to shareholders of any class of shares of the capital stock of a company.”

ARTICLE 7

1. Article XIV (Independent Personal Services) shall be deleted and the subsequent Articles of the Convention shall not be renumbered, and the following consequential changes shall be made to the Convention:

a) Paragraph 4 of Article VI (Income from Immovable Property) shall be deleted and replaced by:

“4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise”

b) Paragraphs 4 and 5 of Article X (Dividends) shall be deleted and replaced by:

“4. The provisions of paragraph 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, carries on in the other Contracting State of which the company paying the dividends is a resident, a trade or business through a permanent establishment situated therein and the holding by virtue of which the dividends are paid is effectively connected with such permanent establishment. In such a case, the provisions of Article VII shall apply.

5. Where a company is a resident of a Contracting State, the other Contracting 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 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.”

c) Paragraphs 4 and 5 of Article XI (Interest) shall be deleted and replaced by:

“4. The provisions of paragraph 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, carries on in the other Contracting State in which the interest arises a trade or business through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such a case, the provisions of Article VII shall apply.

5. 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 in connection with which the indebtedness on which the interest is paid was incurred, and that interest is borne by

that permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.”

d) Paragraphs 5 and 6 of Article XII (Royalties) shall be deleted and replaced by:

“5. The provisions of paragraphs 2 and 3 shall not apply if the recipient of the royalties, being a resident of a Contracting State, carries on in the other Contracting State in which the royalties arise a trade or business through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such a case, the provisions of Article VII shall apply.

6. Royalties 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 royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the obligation to pay the royalties was incurred, and those royalties are borne by that permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.”

e) Paragraph 2 of Article XIII (Gains from the Alienation of Property) shall be deleted and replaced by:

“2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) may be taxed in the other State. However, gains from the alienation of ships or aircraft operated in international traffic and movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which such property is taxable according to paragraph 3 of Article XXII.”

f) Paragraph 2 of Article XXII (Capital) shall be deleted and replaced by:

“2. Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise may be taxed in the Contracting State in which the permanent establishment is situated.”

ARTICLE 8

Paragraph 2 of Article XV (Dependent Personal Services) of the Convention shall be deleted and replaced by the following paragraph:

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

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

ARTICLE 9

Paragraph 3 of Article XVII (Artists and Athletes) of the Convention shall be deleted and replaced by the following paragraph:

“3. The provisions of paragraphs 1 and 2 shall not apply if the activities exercised by an entertainer or a sportsperson in a Contracting State are supported wholly or mainly from public funds within the framework of a cultural or sports exchange program approved by a Contracting State or a political subdivision or local authority thereof. In such a case, the income derived from those activities may only be taxed in the other Contracting State.”

ARTICLE 10

Article XXIII (Elimination of Double Taxation) of the Convention shall be deleted and replaced by the following Article:

“Article XXIII

Elimination of Double Taxation

1. In Spain, double taxation shall be avoided following either the provisions of its internal legislation or the following provisions in accordance with the internal legislation of Spain:

- a) Where a resident of Spain derives income which, in accordance with the provisions of this Convention, may be taxed in Canada, Spain shall allow:
 - (i) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Canada;
 - (ii) the deduction of the underlying corporation tax shall be given in accordance with the internal legislation of Spain.

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

The provisions of this subparagraph shall not apply to any income tax paid in Canada in accordance with the provisions of paragraph 5 of Article XIII.

b) Where in accordance with any provision of this Convention income derived by a resident of Spain is exempt from tax in Spain, Spain may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

2. In Canada, double taxation shall be avoided as follows:

a) subject to the existing provisions of the laws of Canada regarding the deduction from tax payable in Canada of tax paid in a territory outside Canada and to any subsequent modification of those provisions which shall not affect the general principle hereof and unless a greater deduction or relief is provided under the laws of Canada, tax payable in Spain on profits, income or gains arising in Spain shall be deducted from any Canadian tax payable in respect of such profits, income or gains;

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

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

3. For the purpose of paragraph 2, profits, income or gains of a resident of Canada that may be taxed in Spain in accordance with this Convention shall be deemed to arise from sources in Spain.”

ARTICLE 11

Article XXV (Mutual Agreement Procedure) of the Convention shall be deleted and replaced by the following Article:

“Article XXV

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for that person in taxation not in accordance with the provisions of this Convention, that person may, irrespective of the remedies provided by

the domestic law of those States, address to the competent authority of the Contracting State of which that person is a resident an application in writing stating the grounds for claiming the revision of such taxation. To be admissible, the said application must be submitted within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Convention.

2. The competent authority referred to in paragraph 1 shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. A Contracting State shall not, after the expiry of the time limits provided in its domestic laws and, in any case, after eight years from the end of the taxable period to which the income concerned was attributed, increase the tax base of a resident of either of the Contracting States by including therein items of income that have also been included in income in the other Contracting State. This paragraph shall not apply in the case of fraud, wilful default or when a Contracting State applies anti-abuse rules.

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

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

ARTICLE 12

Article XXVI (Exchange of Information) of the Convention shall be deleted and replaced by the following Article:

“Article XXVI

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, insofar as the taxation thereunder is not contrary to this Convention. The exchange of information is not restricted by Articles I and II.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes, or the

oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.

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

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

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

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

ARTICLE 13

The following new Article XXVI - A (Assistance in the Collection of Taxes) shall be inserted into the Convention after Article XXVI:

“Article XXVI - A

Assistance in the Collection of Taxes

1. The Contracting States undertake to lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles I and II. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this Article, including agreement to ensure comparable levels of assistance.

2. The term "revenue claim" as used in this Article means an amount owed in respect of taxes of every kind and description collected by or on behalf of the Contracting States, insofar as the taxation thereunder is not contrary to this Convention or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs related to such amount.

3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection by the competent authority of the other Contracting State. Where an application for collection of a revenue claim is accepted:

- a) by Spain, the revenue claim shall be collected by Spain in accordance with the provisions of its laws applicable to the enforcement and collections of its own taxes as if the revenue claim were a revenue claim of Spain; and
- b) by Canada, the revenue claim shall be treated by Canada as an amount payable under the *Income Tax Act*, the collection of which is not subject to any restriction.

4. Notwithstanding the provisions of paragraph 3, a revenue claim accepted by a Contracting State shall not, in that State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State. A revenue claim of a Contracting State shall not be recovered by imprisonment of the debtor in the other Contracting State.

5. Nothing in this Article shall be construed as creating or providing any rights of administrative or judicial review of a revenue claim of a Contracting State in the other State.

6. Where, at any time after a request has been made by a Contracting State and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned State, the revenue claim ceases to be a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the first-mentioned State shall either suspend or withdraw its request.

7. In no case shall the provisions of this Article be construed so as to impose on a Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) to carry out measures which would be contrary to public policy (ordre public);

- c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection, available under its laws or administrative practice;
- d) to provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other Contracting State.”

ARTICLE 14

Article XXVIII (Miscellaneous Rules) of the Convention shall be deleted and replaced by the following Article:

“Article XXVIII

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 by the laws of a Contracting State in the determination of the tax imposed by that State.
2. Nothing in this Convention shall be construed as preventing Canada from imposing a tax on amounts included in the income of a resident of Canada with respect to a company or other entity in which that resident has an interest.
3. This Convention shall not apply to any company or other entity that is a resident of a Contracting State and is beneficially owned or controlled, directly or indirectly, by one or more persons who are not residents of that State, if the amount of the tax imposed on the income or capital of the company or other entity by that State is substantially lower than the amount that would be imposed by that State (after taking into account any reduction or offset of the amount of tax in any manner, including a refund, reimbursement, contribution, credit, or allowance to the company or to any other person) if all of the shares of the capital stock of the company or all of the interests in the entity, as the case may be, were beneficially owned by one or more individuals who were residents of that State.
4. For the purposes of paragraph 3 of Article XXII (Consultation) of the *General Agreement on Trade in Services* of the *Marrakesh Agreement Establishing the World Trade Organization*, the Contracting States agree that, notwithstanding that paragraph, any dispute between them as to whether a measure falls within the scope of this Convention may be brought before the Council for Trade in Services, as provided by that paragraph, only with the consent of both Contracting States. Any doubt as to the interpretation of this paragraph shall be resolved under paragraph 4 of Article XXV or, failing agreement under that procedure, pursuant to any other procedure agreed to by both Contracting States.”

ARTICLE 15

1. Paragraphs 1, 2 and 3 of the Protocol forming an integral part of the Convention shall be deleted and replaced by the following paragraphs:

“1. With respect to paragraph 1 of Article II, in the case of Spain, this Convention shall also apply to taxes on income imposed on behalf of its political subdivisions or local authorities.

2. With respect to paragraph 6 of Article X, references to profits that are repatriated shall, in the case of Canada, be understood to mean the amount computed in accordance with Part XIV of the *Income Tax Act*.

3. With respect to subparagraph a) of paragraph 7 of Article XI, persons described under subparagraphs a) or b) of paragraph 1 of Article IX shall be deemed not to be dealing with each other at arm's length.”

2. Paragraph 6 of the Protocol of the Convention shall be deleted and replaced by the following paragraph:

“6. For greater certainty, both Contracting States agree that the interpretation of paragraph 4 of Article XIII should be guided by paragraph 28.5 of the Commentary on Article 13 of the Organization for Economic Co-Operation and Development Model Tax Convention on Income and on Capital (July 2010).”

3. The Protocol of the Convention shall be amended by adding the following paragraphs:

“7. For the purpose of this Convention, the term “immovable property” includes shares or other rights which directly or indirectly entitles the owner of such shares or rights to the enjoyment of immovable property situated in a Contracting State.

8. For greater certainty, it is understood that the term “recipient” in Articles X, XI and XII shall be read as “beneficial owner”.

ARTICLE 16

1. The Governments of the Contracting States shall notify each other, through diplomatic channels, that the internal procedures required by each Contracting State for the entry into force of this Protocol have been complied with.

2. This Protocol shall enter into force after the period of three months following the date of receipt of the later of the notifications referred to in paragraph 1 and its provisions shall have effect:

a) In the case of Spain:

(i) in respect of tax withheld at the source on amounts paid or credited to non-residents, on or after the date on which this Protocol enters into force;

(ii) in respect of other taxes, for taxation years beginning on or after the date on which this Protocol enters into force; and

(iii) in all other cases, on or after the date on which this Protocol enters into force.

b) In the case of Canada:

(i) in respect of tax withheld at the source on amounts paid or credited to non-residents, on or after the date on which this Protocol enters into force; and

(ii) in respect of other taxes, for taxation years beginning on or after the date on which this Protocol enters into force.

3. Notwithstanding the provisions of this Article, the provisions of Articles 11 and 12 of this Protocol shall apply in respect of any taxes, mutual agreement procedure or information referred to in these Articles even if such matters pre-date the entry into force of this Protocol or the effective date of any of its provisions.

4. Notwithstanding the provisions of this Article, the provisions of Article 13 of this Protocol shall apply to revenue claims that are in respect of a tax year that commences after a date that is four years before the date on which this Protocol enters into force.

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

DONE in duplicate at.....thisday of..... in the English, Spanish and French languages, each version being equally authentic.

For the Kingdom of Spain

For Canada