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**Canada
and
Papua New Guinea**

Agreement between Canada and Papua New Guinea for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Vancouver, 16 October 1987

Entry into force: *21 December 1989, in accordance with article 28*

Authentic texts: *English and French*

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**Canada
et
Papouasie-Nouvelle-Guinée**

Accord entre le Canada et la Papouasie-Nouvelle-Guinée en vue d'éviter les doubles impositions et de prévenir l'évasion fiscale en matière d'impôts sur le revenu. Vancouver, 16 octobre 1987

Entrée en vigueur : *21 décembre 1989, conformément à l'article 28*

Textes authentiques : *anglais et français*

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[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT BETWEEN CANADA AND PAPUA NEW GUINEA FOR THE
AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF
FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

Canada and Papua New Guinea,

Desiring to conclude an Agreement for the
avoidance of double taxation and the prevention of fiscal
evasion with respect to taxes on income,

Have agreed as follows:

CHAPTER I

SCOPE OF THE AGREEMENT

ARTICLE 1

Personal Scope

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

ARTICLE 2

Taxes Covered

1. This Agreement shall apply to taxes on income imposed on behalf of each Contracting State, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of personal or real property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which the Agreement shall apply are in particular:
 - (a) in the case of Canada:

the income taxes imposed by the Government of Canada (hereinafter referred to as "Canadian tax"),
 - (b) in the case of Papua New Guinea:

the taxes imposed on income under the law of Papua New Guinea including:
 - (i) the income tax;
 - (ii) the salary or wages tax;

- (iii) the additional profits tax upon taxable additional profits from mining operations;
- (iv) the additional profits tax upon taxable additional profits from petroleum operations;
- (v) the specific gains tax upon taxable specific gains;
- and
- (vi) the dividend withholding tax upon taxable dividend income

(hereinafter referred to as "Papua New Guinea tax"),

but do not include any penalty, additional tax in lieu of penalty or interest imposed under the law of either Contracting State relating to such taxes.

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

CHAPTER II

DEFINITIONS

ARTICLE 3

General Definitions

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

- (a) (i) the term "Canada" used in a geographical sense, means the territory of Canada, including any area beyond the territorial seas of Canada which, under the laws of Canada and in accordance with international law, is an area within which Canada may exercise rights with respect to the sea bed and sub-soil and their natural resources;
- (ii) the term "Papua New Guinea" means the Independent State of Papua New Guinea and when used in a geographical sense, includes any area adjacent to the territorial limits of Papua New Guinea in respect of which there is, for the time being, in force a law of Papua New Guinea dealing with the exploitation of any of the natural resources of the continental shelf, its sea bed and sub-soil;
- (b) the terms "a Contracting State" and "the other Contracting State" mean, as the context requires, Canada or Papua New Guinea;

- (c) the term "person" includes an individual, an estate, a trust, 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; in French, the term "société" also means a "corporation" within the meaning of Canadian law;
- (e) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean an enterprise carried on by a resident of Canada or an enterprise carried on by a resident of Papua New Guinea as the context requires;
- (f) the term "tax" means "Canadian tax" or "Papua New Guinea tax", as the context requires;
- (g) the term "competent authority" means:
 - (i) in the case of Canada, the Minister of National Revenue or his authorised representative;
 - (ii) in the case of Papua New Guinea, the Chief Collector of Taxes or his authorised representative.

2. In the application of this Agreement by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws of that State from time to time in force concerning the taxes to which the Agreement applies.

ARTICLE 4

Resident

1. For the purposes of this Agreement, 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.

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 solely of the Contracting State in which he has a permanent home available to him;
- (b) if he has a permanent home available to him in both Contracting States, or if he does not have a permanent home available to him in either of them, he shall be deemed to be a resident solely of the Contracting State in which he has an habitual abode;

- (c) if he has an habitual abode in both Contracting States or if he does not have an habitual abode in either of them, he shall be deemed to be a resident solely of the Contracting State with which his personal and economic relations are closer (hereinafter referred to as his "centre of vital interests");
 - (d) if the Contracting State in which he has his centre of vital interests cannot be determined, he shall be deemed to be a resident of the Contracting State of which he is a citizen;
 - (e) if he is a citizen of both Contracting 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, then it shall be deemed to be a resident solely of the Contracting State in which it was incorporated or otherwise constituted.
4. Where by reason of the provisions of paragraph 1 a person other than an individual or a company is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement. In the absence of such agreement, such person shall be deemed not to be a resident of either Contracting State for the purposes of Articles 6 to 21 inclusive.

ARTICLE 5

Permanent Establishment

1. For the purposes of this Agreement, 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, an oil or gas well, a quarry or any other place of extraction of natural resources;
 - (g) an agricultural, pastoral or forestry property;
- and