

**No. 52681\***

---

**Canada  
and  
Kenya**

**Agreement between Canada and Kenya for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital (with protocol). Ottawa, 27 April 1983**

**Entry into force:** *8 January 1987 by notification, in accordance with article XXX*

**Authentic texts:** *English and French*

**Registration with the Secretariat of the United Nations:** *Canada, 13 May 2015*

*\*No UNTS volume number has yet been determined for this record. The Text(s) reproduced below, if attached, are the authentic texts of the agreement /action attachment as submitted for registration and publication to the Secretariat. For ease of reference they were sequentially paginated. Translations, if attached, are not final and are provided for information only.*

---

**Canada  
et  
Kenya**

**Accord entre le Canada et le Kenya en vue d'éviter les doubles impositions et de prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur la fortune (avec protocole). Ottawa, 27 avril 1983**

**Entrée en vigueur :** *8 janvier 1987 par notification, conformément à l'article XXX*

**Textes authentiques :** *anglais et français*

**Enregistrement auprès du Secrétariat des Nations Unies :** *Canada, 13 mai 2015*

*\*Le numéro de volume RTNU n'a pas encore été établi pour ce dossier. Les textes reproduits ci-dessous, s'ils sont disponibles, sont les textes authentiques de l'accord/pièce jointe d'action tel que soumises pour l'enregistrement et publication au Secrétariat. Pour référence, ils ont été présentés sous forme de la pagination consécutive. Les traductions, s'ils sont inclus, ne sont pas en form finale et sont fournies uniquement à titre d'information.*

[ ENGLISH TEXT – TEXTE ANGLAIS ]

AGREEMENT BETWEEN CANADA AND KENYA FOR THE AVOIDANCE OF  
DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION  
WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Government of Canada and the Government of  
Kenya,

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

HAVE AGREED AS FOLLOWS:

ARTICLE I

Personal Scope

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

ARTICLE II

Taxes Covered

1. This Agreement shall apply to taxes on income and on capital 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 and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, 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 Kenya:

the income taxes imposed by the Government of Kenya, (hereinafter referred to as "Kenyan tax").

4. This Agreement shall apply also to any identical or substantially similar taxes on income and to taxes on capital which are imposed after the date of signature of this 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.

### ARTICLE III

#### General Definitions

1. In 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 waters of Canada which, under the laws of Canada, 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 "Kenya" used in a geographical sense, means the territory of the Republic of Kenya, including any area beyond the territorial waters of Kenya which, under the laws of Kenya, is an area within which Kenya may exercise rights with respect to the sea-bed and sub-soil and their natural resources;
  - (b) the terms "a Contracting State" and "the other Contracting State" mean, as the context requires, Canada or Kenya;
  - (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 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;
  - (f) the term "competent authority" means:
    - (i) in the case of Canada, the Minister of National Revenue or his authorized representative,

- (ii) in the case of Kenya, the Minister of Finance or his authorized representative;
  - (g) the term "tax" means Canadian tax or Kenyan tax, as the context requires but shall not include any tax which is payable in respect of any default or omission in relation to the taxes to which this Agreement applies or which represents a penalty imposed relating to those taxes;
  - (h) the term "national" means:
    - (i) any individual possessing the nationality of a Contracting State;
    - (ii) any legal person, partnership or association deriving its status as such from the law in force in a Contracting State.
2. In the application of the provisions of this Agreement by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the Agreement.

#### ARTICLE IV

##### Fiscal Domicile

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the law of that State, is liable to taxation 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 this case shall be determined in accordance with the following rules:
- (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (hereinafter referred to as his "centre of vital interests");
  - (b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
  - (c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;

- (d) if he is a national 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 company is a resident of both Contracting States, then this case shall be determined in accordance with the following rules:

- (a) it shall be deemed to be a resident of the Contracting State of which it is a national;
- (b) if it is a national of neither of the Contracting States, the competent authorities of the Contracting States shall, by mutual agreement, endeavour to settle the question and to determine the mode of application of the Agreement to such company.

4. Where by reason of the provisions of paragraph 1 a person other than an individual or a company is a resident of both Contracting States, the competent authorities of the Contracting States shall by mutual agreement endeavour to settle the question and to determine the mode of application of the Agreement to such person.

#### ARTICLE V

##### Permanent Establishment

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

2. The term "permanent establishment" shall include especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a sales outlet;
- (g) a mine, quarry, oil well or other place of extraction of natural resources;
- (h) a building site or construction or assembly project which exists for more than 6 months;
- (i) the provision of supervisory activities for more than 6 months on a building site or construction or assembly project;