

No. 53207*

**Canada
and
Nigeria**

Agreement between the Government of Canada and the Government of the Federal Republic of Nigeria for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains (with protocol). Abuja, 4 August 1992

Entry into force: *16 November 1999 by notification, in accordance with article 28*

Authentic texts: *English and French*

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**Canada
et
Nigéria**

Accord entre le Gouvernement du Canada et le Gouvernement de la République fédérale du Nigéria en vue d'éviter les doubles impositions et de prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur les gains en capital (avec protocole). Abuja, 4 août 1992

Entrée en vigueur : *16 novembre 1999 par notification, conformément à l'article 28*

Textes authentiques : *anglais et français*

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[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT

**BETWEEN THE GOVERNMENT OF THE FEDERAL REPUBLIC
OF NIGERIA AND THE GOVERNMENT OF CANADA FOR THE
AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION
OF FISCAL EVASION WITH RESPECT TO TAXES ON
INCOME AND ON CAPITAL GAINS**

The Government of the Federal Republic of Nigeria

and

The Government of Canada,

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 gains,

Have agreed as follows:

CHAPTER 1

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. The taxes which are the subject of the present Agreement are:

- (a) in Canada: the income taxes imposed by the Government of Canada,
(hereinafter referred to as "Canadian tax");
- (b) in Nigeria:
 - (i) the personal income tax,
 - (ii) the companies income tax,
 - (iii) the petroleum profits tax, and
 - (iv) the capital gains tax,

(hereinafter referred to as "Nigerian tax").

2. This Agreement shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State 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 any substantial changes which have been made in their respective taxation laws.

CHAPTER II

DEFINITIONS

Article 3

GENERAL DEFINITIONS

1. In this Agreement, unless the context otherwise requires:
 - (a) the term "Canada" used in a geographical sense, means the territory of Canada, including any area beyond the territorial seas of Canada which, according to international law and the laws of Canada, is an area within which Canada may exercise rights with respect to the seabed and subsoil and their natural resources;
 - (b) the term "Nigeria" means the Federal Republic of Nigeria including any area outside the territorial sea of the Federal Republic of Nigeria which in accordance with international law has been or may hereafter be designated, under the laws of the Federal Republic of Nigeria concerning the continental shelf, as an area within which the rights of the Federal Republic of Nigeria with respect to the seabed and subsoil and their natural resources may be exercised;
 - (c) the term "national" means:
 - (i) any individual possessing the citizenship of a Contracting State;
 - (ii) any legal person, partnership and association deriving its status as such from the laws in force in a Contracting State;
 - (d) the terms "a Contracting State" and "the other Contracting State" mean Nigeria or Canada as the context requires;
 - (e) the term "person" includes an individual, an estate, a trust, a company, a partnership and any other body of persons;
 - (f) 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;
 - (g) 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;
 - (h) the term "international traffic" means any transport by a ship or aircraft operated by a resident of a Contracting State, except where the ship or aircraft is operated solely between places in the other Contracting State;
 - (i) the term "competent authority" means, in the case of Nigeria, the Federal Minister of Finance and Economic Development or his authorized representative; and in the case of Canada, the Minister of National Revenue or his authorized representative.

2. As regards 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 concerning the taxes to which this Agreement applies.

Article 4

FISCAL RESIDENCE

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 of this Article an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:

- (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 has not 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 of this Article a company is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which it is incorporated.

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) a building site or construction or assembly project or supervisory activities in connection therewith, where such site, project or supervisory activities continue for a period of more than three months; and
- (h) an installation, or the provision of supervisory activities in connection with an installation, incidental to the sale of machinery or equipment where the charge payable for such installation or activities exceeds 10 per cent of the sale price of the machinery or equipment free-on-board.

3. The term “permanent establishment” shall be deemed not to include:

- (a) the use of facilities solely for the purpose of storage, display or delivery 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, display or delivery;
- (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 for collecting information, for the enterprise;