

PROTOCOL

At the signing of the Agreement between the Government of Canada and the Government of the Republic of India for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital, the undersigned have agreed upon the following provisions which shall be an integral part of the Agreement:

1. It is understood that the term "fiscal year" in relation to Indian tax, means "previous year" as defined in the Income-tax Act, 1961.
2. It is understood that the provisions of paragraph 1 of Article 6, also apply to income, other than capital gains, derived from the alienation of immovable property.
3. It is understood that where an enterprise of a Contracting State has a permanent establishment in the other Contracting State in accordance with the provisions of paragraphs 2(j), 2(k) or 2(l) of Article 5, and the time period referred to in that paragraph extends over two taxable years, a permanent establishment shall not be deemed to exist in a year, if any, in which the use, site, project or activity, as the case may be, continues for a period or periods aggregating less than 30 days in that taxable year. A permanent establishment will exist in the other taxable year, and the enterprise will be subject to tax in that other Contracting State in accordance with the provisions of Article 7, but only on income arising during that other taxable year.
4. With reference to Article 13, it is understood that the term "alienation" includes a "transfer" within the meaning of Indian taxation laws.
5. It is understood that nothing in the Agreement shall be construed as preventing a Contracting State from imposing a tax on amounts included in the income of a resident of that Contracting State with respect to a partnership, trust, or controlled foreign affiliate, in which he has an interest.

IN WITNESS WHEREOF the undersigned, duly authorized to that effect, have signed this Protocol.

DONE in duplicate at *Delhi*, this *11th* day of *January* 1996, in the English, French and Hindi languages, each version being equally authentic.

FOR THE GOVERNMENT
OF CANADA

Ray Macfarlan

FOR THE GOVERNMENT OF
THE REPUBLIC OF INDIA

Munim Khan Singh