

4. The provisions of paragraphs 2 and 3 shall not apply in the case of fraud, wilful default or where a person's obligations have not been fulfilled owing to careless or deliberate behaviour."

#### ARTICLE VI

1. The following paragraphs shall be inserted after paragraph 2 of Article 10 of the Convention:

"3. Notwithstanding the provisions of paragraph 2, dividends arising in a Contracting State and beneficially owned by an organisation that was constituted and is operated in the other Contracting State exclusively to administer or provide benefits under one or more recognized pension plans shall be exempt from tax in the first-mentioned State if:

- (a) the organisation is the beneficial owner of the shares on which the dividends are paid, holds those shares as an investment and is generally exempt from tax in the other State;
- (b) the organisation does not own directly or indirectly more than 10 per cent of the capital or 10 per cent of the voting power of the company paying the dividends; and
- (c) each recognized pension plan provides benefits primarily to individuals who are resident of the other Contracting State.

4. For the purposes of paragraph 3, the term "recognized pension plan" means:

- (a) in the case of Canada, a retirement or employee benefits plan described in paragraph (a) of the definition of "pension" under Article 5 of the *Income Tax Conventions Interpretation Act*;
- (b) in the case of the United Kingdom, a pension scheme (other than a social security scheme) registered under Part 4 of the *Finance Act 2004*, including pension funds or pension schemes arranged through insurance companies and unit trusts where the unit holders are exclusively pension schemes; and
- (c) any other pension plan agreed by the competent authorities of both Contracting States."

2. Paragraphs 4 to 7 of Article 10 of the Convention shall be renumbered as paragraphs 5 to 8.