

## II

## PROTOCOL

At the moment of signing the Convention for the avoidance of double taxation, and the establishment of rules of reciprocal administrative assistance in the case of income taxes, this day concluded between Canada and the United States of America, the undersigned plenipotentiaries have agreed upon the following provisions and definitions:

1. The taxes referred to in this Convention are:

- (a) for the United States of America: the Federal income taxes, including surtaxes, and excess-profits taxes.
- (b) for Canada: the Dominion income taxes, including surtaxes, and excess-profits taxes.

2. In the event of appreciable changes in the fiscal laws of either of the contracting States, the Governments of the two contracting States will consult together.

3. As used in this Convention:

- (a) the terms "person", "individual" and "corporation", shall have the same meanings, respectively, as they have under the revenue laws of the taxing State or the State furnishing the information, as the case may be;
- (b) the term "enterprise" includes every form of undertaking, whether carried on by an individual, partnership, corporation or any other entity;
- (c) the term "enterprise of one of the contracting States" means, as the case may be, "United States enterprise" or "Canadian enterprise";
- (d) the term "United States enterprise" means an enterprise carried on in the United States of America by an individual resident in the United States of America, or by a corporation, partnership or other entity created or organized in or under the laws of the United States of America, or of any of the States or Territories of the United States of America;
- (e) the term "Canadian enterprise" is defined in the same manner *mutatis mutandis* as the term "United States enterprise";
- (f) the term "permanent establishment" includes branches, mines and oil wells, farms, timber lands, plantations, factories, workshops, warehouses, offices, agencies and other fixed places of business of an enterprise, but does not include a subsidiary corporation.

When an enterprise of one of the contracting States carries on business in the other contracting State through an employee or agent established there, who has general authority to contract for his employer or principal or has a stock of merchandise from which he regularly fills orders which he receives, such enterprise shall be deemed to have permanent establishment in the latter State.

The fact that an enterprise of one of the contracting States has business dealings in the other contracting State through a commission agent, broker or other independent agent or maintains therein an office used solely for the purchase of merchandise shall not be held to mean that such enterprise has a permanent establishment in the latter State.

4. The term "Minister", as used in this Convention, means the Minister of National Revenue of Canada or his duly authorized representative. The term "Commissioner", as used in this Convention, means the Commissioner of