

**AGREEMENT BETWEEN THE UNITED MEXICAN STATES AND JAMAICA
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME**

The United Mexican States and Jamaica,

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

Have agreed as follows:

**ARTICLE 1
PERSONS COVERED**

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

**ARTICLE 2
TAXES COVERED**

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property and in the case of Jamaica, taxes on the total amount of wages or salaries paid by enterprises.
3. The existing taxes to which the Agreement shall apply are:
 - a) in Mexico, the federal income tax(hereinafter referred to as "Mexican tax");
 - b) in Jamaica, the income tax(hereinafter referred to as "Jamaican Tax").
4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their taxation laws.

ARTICLE 3 GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:
 - a) the term "Mexico" means the United Mexican States, when used in a geographical sense it includes the territory of the United Mexican States, as well as the integrated parts of the Federation; the islands, including the reefs and cays in the adjacent waters; the islands of Guadalupe and Revillagigedo; the continental shelf and the seabed and sub-soil of the islands, cays and reefs; the waters of the territorial seas and the inland waters and beyond them; the areas over which, in accordance with the international law, Mexico may exercise its sovereign rights of exploration and exploitation of the natural resources of the seabed, sub-soil and the supra-jacent waters; and the air space of the national territory to the extent and under conditions established by international law;
 - b) the term "Jamaica" means the island of Jamaica, the Morant Cays, the Pedro Cays, and their dependencies and includes the archipelagic waters and territorial sea of Jamaica and any area outside such territorial waters which in accordance with international law has been or may hereafter be designated under Jamaican Law as an area within which Jamaica may exercise sovereign rights for the purpose of exploring and exploiting the natural resources of sea-bed or its subsoil and the superjacent waters and with regards to other activities for economic exploration and exploitation of the area;
 - c) the terms "a Contracting State" and "the other Contracting State" mean Mexico or Jamaica, as the context requires;
 - d) the term "person" includes an individual, a company and any other body of persons;
 - e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - f) the term "enterprise" applies to the carrying on of any business;
 - 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 an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- i) the term "business" includes the performance of professional services and of other activities of an independent character;
- j) the term "competent authority" means:
 - (i) in Mexico, the Ministry of Finance and Public Credit;
 - (ii) in the case of Jamaica, the Minister responsible for finance or his authorised representative;
- k) 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 laws in force in a Contracting State.

2. As regards the application of the Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

ARTICLE 4 RESIDENT

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, and also includes that State, and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

- a) he shall be deemed to be a resident only 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 only 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 only 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 only 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 a person other than an individual 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 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; and
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. The term "permanent establishment" likewise encompasses:

- a) a building site or construction, assembly, installation or dredging project, or a drilling rig or ship used for the exploration or development of natural resources within a Contracting State, but only if such site, project or activity continues within that State for a period or periods aggregating more than six (6) months (including the period of any supervisory activity, connected therewith), in any twelve (12) month period;
- b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within a Contracting State for a period or periods exceeding in the aggregate one hundred and eighty-three (183) days in any twelve (12) month period;
- c) the performance of professional services or other activities of an independent character by an individual, but only where those services or activities continue within a Contracting State for a period or periods exceeding in the aggregate one hundred and eighty-three (183) days in any twelve (12) month period.

The term "professional services" includes independent scientific, literary, artistic, educational or teaching activities, as well as independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

For the purposes of computing the time limits referred to in paragraph 3, the activities carried on by an enterprise associated with another enterprise within the meaning of Article 9 shall be aggregated with the period during which the activities are carried on by the associated enterprise, if the activities of both enterprises are identical or substantially similar.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

- a) the use of facilities solely for the purpose of storage or display 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 or display;

- 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 of collecting information for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 7 applies - is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State (in respect of any activities which that person undertakes for the enterprise), if such a person:

- a) has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or
- b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

6. Notwithstanding the foregoing provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to reinsurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.

7. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status,

provided that such persons are acting in the ordinary course of their business and that in their commercial or financial relations with the enterprise conditions are not made or imposed that differ from those generally agreed to by independent agents.

8. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

ARTICLE 6 INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

ARTICLE 7 BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to:

- a) that permanent establishment;
- b) sales in that other State of goods or merchandise of the same or similar kind as the goods or merchandise sold through that permanent establishment.

However, the profits derived from the sales described in subparagraph b) shall not be taxable in the other Contracting State if the enterprise demonstrates that such sales have been carried out for reasons other than obtaining a tax benefit under this Agreement.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8 INTERNATIONAL TRAFFIC

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
2. If the place of effective management of a shipping enterprise is aboard a ship then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.
3. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic include profits from the rental of ships or aircraft on a full (time or voyage) basis. They also include profits from the rental of ships or aircraft on a bareboat basis if such ships or aircraft are operated in international traffic by the lessee and are derived by an enterprise of a Contracting State engaged in the operation of ships or aircraft in international traffic.
4. For the purposes of this Article and notwithstanding the provisions of Article 12, profits of an enterprise of a Contracting State from the use, maintenance or rental of containers (including trailers, barges and related equipment for the transport of containers) used in international traffic shall be taxable only in that State where such use or rental is incidental to the operation of ships or aircraft in international traffic.
5. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

ARTICLE 9 ASSOCIATED ENTERPRISES

1. Where:
 - a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State; or
 - b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State;

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State -and taxes accordingly- profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall, make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

ARTICLE 10 DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other Contracting State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:

- a) 5% of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly or indirectly at least 25% of the capital of the company paying the dividends;
- b) 10% of the gross amount of the dividends in all other cases.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights and other income which is subjected to the same taxation treatment

as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or the dividends are attributable to a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

6. Notwithstanding any other provision of this Agreement, where an enterprise which is a resident of a Contracting State has a permanent establishment in the other Contracting State, the profits taxable under paragraph 1 of Article 7 may be subject to an additional withholding tax in that other Contracting State, in accordance with its taxation laws, when the profits are remitted to the head office, but the withholding tax so charged shall not exceed 5% of the amount of those profits, after deducting therefrom the corporation tax imposed thereon in that other Contracting State.

ARTICLE 11 INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10% of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest referred to in paragraph 1 shall be taxable only in the Contracting State in which the beneficial owner is a resident if:

- a) the beneficial owner is a Contracting State, a political subdivision or a local authority thereof, or the Central Bank of a Contracting State;

- b) the interest is paid by any of the entities mentioned in subparagraph a);
- c) the interest is paid in respect of a loan granted, guaranteed or insured by any financial institution wholly owned by one of the Contracting States.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as all other income that is treated as income from money lent by the laws of the Contracting State in which the income arises. The term "interest" shall not include any item of income which is considered as a dividend under the provisions of paragraph 3 of Article 10.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid exceeds, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 12 ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10% of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for:

- a) the use of, or the right to use, any patent, trade mark, design or model, plan, secret formula or process;
- b) the use of, or the right to use, any industrial, commercial or scientific equipment;
- c) the supply of information concerning industrial, commercial or scientific experience; or
- d) the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematograph films and films or tapes for television or radio broadcasting.

Notwithstanding the provisions of Article 14, the term "royalties" also includes payments derived from the alienation of any such right or property which are contingent on the productivity, use or disposition thereof.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether he is a resident of one of the Contracting States or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then the royalties shall be deemed to arise in the State in which the permanent establishment is situated.

6. Where by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 13 TECHNICAL FEES

1. Technical fees arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State.
2. However, such technical fees may also be taxed in the Contracting State in which they arise and according to the law of that State, but if the recipient is the beneficial owner of the technical fees, the tax so charged shall not exceed 10% of the gross amount of the technical fees.
3. The term "technical fees" as used in this Article means payments of any kind, other than those mentioned in Articles 7 and 15 of this Agreement as consideration for managerial, technical or consultancy services, including the provision of services of technical or other personnel.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the technical fees, being a resident of a Contracting State, carries on a business in the other Contracting State in which the technical fees arise, through a permanent establishment situated therein, and the obligation to pay the technical fees is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 shall apply.
5. Technical fees shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the technical fees, whether he is a resident of one of the Contracting States or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the technical fees was incurred, and such technical fees are borne by such permanent establishment, then the technical fees shall be deemed to arise in the State in which the permanent establishment is situated.
6. Where by reason of a special relationship between the payer and the beneficial owner of the technical fees or between both of them and some other person the amount of the technical fees paid, having regard to the activity, services or use for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 14 CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of shares or other similar rights in a company the property of which consists directly or indirectly, in more than 50% of immovable property situated in a Contracting State may be taxed in that State.
3. In addition to gains taxable in accordance with the provisions of the preceding paragraphs of this Article, gains derived by a resident of a Contracting State from the alienation of stock, participation, or other rights in the capital of a company which is a resident of the other Contracting State may be taxed in that other Contracting State.
4. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.
5. Gains from the alienation of ships or aircraft operated in international traffic, or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
6. Gains from the alienation of any property other than that referred to in the preceding paragraphs of this Article, shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 15

INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21 salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned Contracting State if:
 - a) the recipient is present in the other State for a period or periods not exceeding in the aggregate one hundred and eighty-three (183) days in any twelve (12) month period commencing or ending in the fiscal year concerned; and
 - b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and

- c) the remuneration is not borne by a permanent establishment which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

ARTICLE 16 DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State, may be taxed in that other State.

ARTICLE 17 ARTISTES AND SPORTSPERSONS

1. Notwithstanding the provisions of Articles 7 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived by a resident of a Contracting State as an entertainer or sportsperson shall be exempt from tax by the other Contracting State if the visit to that other State is substantially supported by public funds of the first mentioned State or a political subdivision or local authority thereof.

ARTICLE 18 PENSIONS

1. Subject to the provisions of paragraph 2 of Article 19, pensions, annuities and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

2. The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

ARTICLE 19 GOVERNMENT SERVICE

1.

- a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
- b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.

2.

- a) Notwithstanding the provisions of paragraph 1, any pension and other similar remuneration paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
- b) However, such pension and other similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages, pensions and other similar remuneration, in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

ARTICLE 20 STUDENTS

1. A student, business apprentice or trainee who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training shall be exempt from tax in that first-mentioned State on the following payments or income received or derived by him for the purpose of his maintenance, education or training:

- a) payments derived from sources outside that Contracting State for the purpose of his maintenance, education, study, research or training;
- b) grants, scholarships or awards supplied by the Government, or a scientific, educational, cultural or other tax-exempt organization.

2. In respect of remuneration from employment income only, a student, business apprentice or trainee described in paragraph 1 shall be entitled during such education or training to the same exemptions, reliefs or reductions in respect of taxes available to residents of the Contracting State which he is visiting.

ARTICLE 21 TEACHERS AND RESEARCHERS

1. An individual who visits a Contracting State for the purpose of teaching or engaging in research at a university, college or other recognised educational institution in that Contracting State, and who was immediately before that visit a resident of the other Contracting State, shall be exempt from tax by the first-mentioned Contracting State on any remuneration for such teaching or research for a period not exceeding two (2) years from the date of his first arrival in that State for such purpose.

2. The provision of paragraph 1 shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

ARTICLE 22 SPECIAL PROVISIONS

1. The provisions of this Article shall apply notwithstanding any other provision of this Agreement.
2. A person who is a resident of a Contracting State and carries on activities in the other Contracting State which consist or are connected with the exploration, production, refining, processing, transportation, distribution, storage or commercialization of hydrocarbons situated in that other State, and those activities are carried on for a period or periods exceeding in the aggregate thirty (30) days in any twelve (12) month period shall be deemed in relation to those activities to be carrying on business in that other State through a permanent establishment situated therein.
3. For the purposes of computing the time limit referred to in paragraph 2, activities carried on by an enterprise associated with another enterprise shall be regarded as carried on by the enterprise with which it is associated if the activities in question are identical or substantially similar as those carried on by the last-mentioned enterprise or are part of the same project. For the purposes of this paragraph the term "associated enterprise" shall have the meaning given by the laws of the State where the activities are carried on.
4. Salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment connected with the exploration, production, refining, processing, transportation, distribution, storage or commercialization of hydrocarbons situated in the other Contracting State may be taxed in that other State. However, such remuneration shall be taxable only in the first-mentioned State if the employment is carried on for an employer who is not a resident of the other State and provided that the employment is carried on for a period or periods not exceeding in the aggregate thirty (30) days in any twelve (12) month period commencing or ending in the fiscal year concerned."

ARTICLE 23 OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

3. Notwithstanding the provisions of paragraph 1 and 2, items of income derived by a resident of a Contracting State from sources in the other Contracting State may also be taxed in that other State.

ARTICLE 24 LIMITATION ON BENEFITS

1. Except as otherwise provided in this Article, a person (other than an individual), which is a resident of a Contracting State and which derives income from the other Contracting State shall be entitled to all the benefits of this Agreement otherwise accorded to residents of a Contracting State only if such a person has the qualifications as defined in paragraph 2 and meets the other conditions of this Agreement for the obtaining of any of such benefits.

2. A person of a Contracting State is a qualified person for a fiscal year only if such person is either:

- a) a governmental entity;
- b) a company incorporated in either of the Contracting States, if:
 - (i) the principal class of its shares is listed on a recognized stock exchange as defined in paragraph 4 of this Article and is regularly traded on one or more recognized stock exchanges; or
 - (ii) at least 50% of the aggregate vote or value of the shares in the company is owned directly or indirectly by one or more individuals residents of either of the Contracting States or/and by other persons incorporated in either of the Contracting States, at least 50% of the aggregate vote or value of the shares or beneficial interest of which is owned directly or indirectly by one or more individuals residents of either of the Contracting States;
- c) a partnership or association of persons, at least 50% or more of whose beneficial interests is owned by one or more individuals residents of either of the Contracting States or/and by other persons incorporated in either of the Contracting States, at least 50% of the aggregate vote or value of the shares or beneficial interest of which is owned directly or indirectly by one or more individuals residents of either of the Contracting States; or
- d) a charitable institution or other tax exempt entity whose main activities are carried on in either of the Contracting States.

Provided that the persons mentioned above will not be entitled to the benefits of the Agreement if more than 50% of the person's gross income for the taxable year is

paid or payable directly or indirectly to persons who are not residents of either of the Contracting States (but not including, arm's length payments in the ordinary course of business for services or tangible property, and payments in respect of financial obligations to a bank, provided that, if such a bank is not a resident of a Contracting State, such payments are attributable to the permanent establishment of that bank located in one of the Contracting States) in the form of payments that are deductible for the purpose of computation of tax covered by this Agreement in the person's State of residence.

3. A resident of a Contracting State shall nevertheless be granted the benefits of the Agreement if the competent authority of the other Contracting State determines that the said resident actively carries out business in the other State and that the establishment or acquisition or maintenance of such person and the conduct of its operations did not have as one of its principal purposes the obtaining of benefits under the Agreement.

4. For the purposes of this Article the term "recognized stock exchange" means:

- a) in Mexico, the Mexican Stock Exchange Market (*Bolsa Mexicana de Valores*);
- b) in Jamaica, Jamaica Stock Exchange; and
- c) any other stock exchange which the competent authorities agree to recognize for the purposes of this Article.

5. No provision of the Agreement, except for the Article "Exchange of Information", shall apply to:

- a) an item of income that is exempt from tax in a Contracting State of which the beneficial owner of the income is a resident or is taxable in that State in the hands of that resident at a rate lower than the rate applicable to the same item of income derived by other residents of that State that do not benefit from such exemption or rate; or
- b) an item of income beneficially owned by a resident of a Contracting State that benefits from a deduction, rebate or other concession or benefit that is provided directly or indirectly in relation to that item of income, other than a credit for foreign tax paid, and is not available to other residents of that State.

6. Before a resident of a Contracting State is denied relief from taxation in the other Contracting State by reason of the preceding paragraphs, the competent authorities of the Contracting States shall consult each other. Likewise, the competent authorities of the Contracting States may consult each other with regard to the application of this Article.

7. The provisions of this Agreement shall not prevent a Contracting State from applying its provisions regarding thin capitalisation and controlled foreign corporation (in the case of Mexico, preferential tax regimes).

ARTICLE 25 ELIMINATION OF DOUBLE TAXATION

1. In accordance with the provisions and subject to the limitations of the laws of Mexico, as may be amended from time to time without changing the general principle hereof, Mexico shall allow its residents as a credit against the Mexican tax:

- a) the Jamaican tax paid on income arising in Jamaica, in an amount not exceeding the tax payable in Mexico on such income; and
- b) in the case of a company owning at least 10% of the capital of a company which is a resident of Jamaica and from which the first-mentioned company receives dividends, the Jamaican tax paid by the distributing company with respect to the profits out of which the dividends are paid.

2. Subject to the provisions of the laws of Jamaica regarding the allowance as a credit against Jamaican tax or tax paid in a territory outside of Jamaica (which shall not affect the general principles thereof) where a resident of Jamaica derives income, which in accordance with the provisions of this Agreement may be taxed in Mexico, Jamaica shall allow a deduction from the tax on the income of that resident an amount equal to the income tax paid in Mexico; and where a company which is a resident of Mexico pays a dividend to a company resident in Jamaica, which controls directly or indirectly at least 10% of the capital in the first-mentioned company, the deduction shall take into account the tax payable in Mexico by that first-mentioned company in respect of the profits out of which such dividend is paid.

3. Where in accordance with any provision of the Agreement, income derived by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

ARTICLE 26 NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that

other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, paragraph 6 of Article 12 or paragraph 6 of Article 13 apply, interest, royalties, technical fees and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

ARTICLE 27 MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 26, to that of the Contracting State of which he is a national. The case must be presented within three (3) years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Agreement.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

4. The competent authorities of the Contracting States may communicate with each other directly including through a joint commission consisting of themselves or their representatives for the purpose of reaching an agreement in the sense of the preceding paragraphs. The competent authorities, through consultations, shall develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure provided for in this Article.

5. Notwithstanding any other treaties of which the Contracting States are or may become parties, any dispute over a measure taken by a Contracting State involving a tax covered by Article 2 or, in the case of non-discrimination, any taxation measure taken by a Contracting State, including a dispute whether this Agreement applies, shall be settled only under the Agreement, unless the competent authorities of the Contracting States agree otherwise.

ARTICLE 28

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation to:

- a) carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- c) supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or fiduciary capacity or because it relates to ownership interests in a person.

ARTICLE 29

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

The provisions of this Agreement shall not affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

ARTICLE 30

ENTRY INTO FORCE

Each of the Contracting States shall notify each other, through the diplomatic channels, the completion of the procedures required by its domestic law for the bringing into force of this Agreement. This Agreement shall enter into force thirty (30) days after the date of reception of the later of these notifications and its provisions shall have effect:

- a) in respect of taxes withheld at source, to income paid or credited on or after the first day of January in the calendar year next following that in which the Agreement enters into force;

- b) in respect of other taxes, for any taxable year beginning on or after the first day of January in the calendar year next following that in which the Agreement enters into force.

ARTICLE 31 TERMINATION

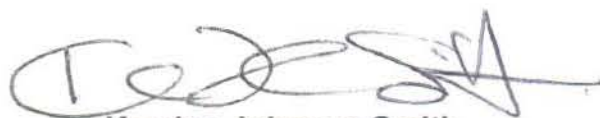
This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement at any time after five (5) years from the date on which the Agreement enters into force, provided that at least six (6) months prior notice of termination has been given through diplomatic channels. In such event, the Agreement shall cease to have effect:

- a) in respect of taxes withheld at source, to income paid or credited on or after the first day of January in the calendar year next following that in which the notice is given;
- b) in respect of other taxes, for any taxable year beginning on or after the first day of January in the calendar year next following that in which the notice is given.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Agreement.

DONE in duplicate at Mexico City, this 18th of May of two thousand and sixteen in the English and Spanish languages, both texts being equally authentic.

FOR JAMAICA



**Kamina Johnson Smith
Minister of Foreign Affairs and
Foreign Trade**

**FOR THE
UNITED MEXICAN STATES**



**Claudia Ruiz Massieu Salinas
Minister of Foreign Affairs**

PROTOCOL

At the signing of the Agreement between the United Mexican States and Jamaica for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, the undersigned have agreed upon the following provisions which shall form an integral part of the Agreement.

1. With reference to paragraph 2 of Article 5:

It is understood that the term "permanent establishment" also includes:

- a) a store or premises used as a sales outlet; and
- b) a warehouse, in relation to a person providing storage facilities for others.

2. With reference to Article 6:

It is understood that where the ownership of shares or other rights in a company or any other legal person which entitles a resident of a Contracting State to the enjoyment of immovable property situated in the other Contracting State and held by that company or that other legal person, income derived by the owner from the direct use, letting or use in any other form of his right of enjoyment may be taxed in that other State to the extent it might be taxed if the owner were a resident of that other State.

3. With reference to Article 8:

It is understood that profits referred to in paragraph 1 shall not include profits from the use of any other mean of transport.

4. With reference to Article 26:

It is understood that a life assurance company which is a resident of Mexico shall not be subjected to a higher rate than a life assurance company which is a resident of Jamaica.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Protocol.

DONE in duplicate at Mexico City this 18th of May of two thousand and sixteen in the English and Spanish languages, both texts being equally authentic.

FOR JAMAICA



Kamina Johnson Smith
Minister of Foreign Affairs and Foreign Trade

**FOR THE
UNITED MEXICAN STATES**



Claudia Ruiz Massieu Salinas
Minister of Foreign Affairs