

**No. 7586**

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**FINLAND  
and  
DENMARK**

**Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital. Signed at Helsinki, on 7 April 1964**

*Official texts: Finnish and Danish.*

*Registered by Finland on 8 February 1965.*

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**FINLANDE  
et  
DANEMARK**

**Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et d'impôts sur la fortune. Signée à Helsinki, le 7 avril 1964**

*Textes officiels finnois et danois.*

*Enregistrée par la Finlande le 8 février 1965.*

[TRANSLATION — TRADUCTION]

No. 7586. AGREEMENT<sup>1</sup> BETWEEN THE REPUBLIC OF FINLAND AND THE KINGDOM OF DENMARK FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL. SIGNED AT HELSINKI, ON 7 APRIL 1964

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The Republic of Finland and the Kingdom of Denmark have decided to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital.

For this purpose, plenipotentiaries have been appointed as follows by :

The President of the Republic of Finland :

Mr. Sigurd von Numers, Minister, Chief of the Legal Department of the Finnish Ministry of Foreign Affairs ;

His Majesty the King of Denmark :

Mr. Holger Bech, Ambassador Extraordinary and Plenipotentiary of Denmark at Helsinki,

who, having examined each other's full powers, found in good and due form, have agreed on the following provisions :

*Article 1*

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

*Article 2*

(1) This Agreement shall apply to taxes on income and capital levied by either Contracting State or a subdivision thereof or by a commune or parish, irrespective of the manner in which they are levied.

(2) The term "taxes on income and capital" means all taxes levied on total income or total capital or on a portion of income or capital, including taxes on profits derived from the alienation of movable or immovable property.

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<sup>1</sup> Came into force on 13 January 1965, the date of the exchange of the instruments of ratification at Helsinki, in accordance with article 31.

(3) The taxes now in force to which the Agreement shall apply are, in particular :

(a) In the case of Finland :

The tax on income and capital (*tulo- ja omaisuusvero*) ;

The communal tax (*kunnallisvero*) ;

The seaman's tax and the church tax (*merimiesvero ja kirkollisvero*).

These taxes shall hereinafter be referred to as "Finnish tax".

(b) In the case of Denmark :

The national income and capital tax and the communal income tax (*indkomst- og formueskat til staten, samt kommunal indkomstskat*).

These taxes shall hereinafter be referred to as "Danish tax".

(4) This Agreement shall also apply to all taxes of the same or substantially the same kind which are subsequently levied in addition to, or in place of, the taxes now in force. At the end of each year, the competent authorities of the Contracting States shall inform each other of any changes which have been made in their respective tax laws.

### Article 3

(1) In this Agreement, unless the context otherwise requires :

(a) The terms "one of the Contracting States" and "the other Contracting State" mean the Republic of Finland or the Kingdom of Denmark, as the context requires ;

(b) The term "Denmark" means the Kingdom of Denmark, excluding the Faroe Islands and Greenland ;

(c) The term "person" includes individuals, companies and other associations of persons ;

(d) The term "company" means a body corporate or any association which is treated as a body corporate for tax purposes ;

(e) The terms "enterprise of one of the Contracting States" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of one of the Contracting States and an enterprise carried on by a resident of the other Contracting State ;

(f) The term "competent authorities" means, in the case of Finland, the Ministry of Finance and, in the case of Denmark, the Minister of Finance or his authorized representative.

(2) In the application of the provisions of this Agreement by one of the Contracting States, any term not otherwise defined in the Agreement shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that State relating to the taxes which are the subject of the Agreement.

*Article 4*

(1) In this Agreement, the term “resident of one of the Contracting States” means any person who, under the law of that State, is liable to taxation there by reason of his domicile, residence, place of management or any similar criterion.

(2) Where, under the provisions of paragraph (1), an individual is a resident of both Contracting States, the following rules shall apply :

(a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which he has the closest personal and economic ties ;

(b) If the Contracting State with which he has the closest personal and economic ties cannot be determined, or if he does not have a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he is customarily present ;

(c) If he is customarily present in both Contracting States or is not customarily present in either 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 Contracting States or is not a national of either of them, the competent authorities of the Contracting States shall decide the question by agreement between them.

(3) Where a person liable to taxation removes from one of the Contracting States in order to take up residence in the other Contracting State, his liability for income tax in the first-mentioned State shall, in so far as it is dependent on his residence status, cease at the end of the day on which the removal is completed.

In so far as taxes on capital are concerned, each Contracting State shall, where a person removes from one State to the other, be entitled to proceed in accordance with its own tax law, except where the competent authorities of the two States agree on exceptions in special cases.

(4) Where, under the provisions of paragraph (1), a person other than an individual is a resident of both Contracting States, the said person shall be deemed to be a resident of the Contracting State in which the place of actual management of such person is situated.

*Article 5*

(1) The term “permanent establishment” means a fixed place of business in which the activities of an enterprise are wholly or partly carried on.

(2) The term “permanent establishment” specifically includes :

(a) A place of management ;

(b) A branch ;

(c) A business office ;

(d) A factory ;

(e) A workshop ;

(f) A mine, quarry or any other place where natural resources are worked ;

(g) The site of a construction or assembly project the duration of which exceeds twelve months.

(3) The term “permanent establishment” does not include :

(a) The use of facilities exclusively for the storage, display or delivery of goods belonging to the enterprise ;

(b) The maintenance, exclusively for storage, display or delivery, of a stock of goods belonging to the enterprise ;

(c) The maintenance, exclusively for processing or finishing by another enterprise, of a stock of goods belonging to the enterprise ;

(d) The maintenance of a fixed place of business for the exclusive purpose of purchasing goods or procuring information for the enterprise ;

(e) The maintenance of a fixed place of business exclusively for advertising purposes, for the collection of information, for scientific research or for similar activities in the nature of preparatory or auxiliary activities for the benefit of the enterprise.

(4) A person—other than an independent representative within the meaning of paragraph (5)—acting in one of the Contracting States on behalf of an enterprise of the other Contracting State shall be deemed to constitute a permanent establishment in the first-mentioned State if he has and habitually exercises an authority to conclude contracts in that State on behalf of the enterprise, except where his activities are limited to the purchase of goods for the enterprise.

(5) An enterprise of one of the Contracting States shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business dealings in the latter State through a broker, commission agent or other independent representative acting in the ordinary course of his business.

(6) The fact that a company which is a resident of one of the Contracting States controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in the latter State (either through a permanent

establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

#### *Article 6*

(1) Income from immovable property shall be taxable in the Contracting State in which the property is situated.

(2) The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property is situated. The term shall in any case include property accessory to immovable property, livestock and equipment of agricultural and forestry enterprises, rights to which the provisions of general law concerning immovable property apply, rights of usufruct in immovable property, and rights to variable or fixed payments for the use of mineral deposits, springs and other natural resources.

(3) The provisions of paragraph (1) shall apply to income derived from the direct use or the letting of immovable property or from the use in any other form of such property, including income from agricultural and forestry enterprises.

(4) The provisions of paragraphs (1) to (3) shall also apply to income from immovable property belonging to enterprises other than agricultural or forestry enterprises and to income from immovable property used for the performance of professional services.

#### *Article 7*

(1) The profits of an enterprise of one of the Contracting States shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated there. If the enterprise carries on business as aforesaid, tax may be levied in the other State on its profits but only on so much of them as is attributable to the permanent establishment.

(2) Where an enterprise of one of the Contracting States carries on business in the other Contracting State through a permanent establishment situated there, there shall in each State be attributed to the permanent establishment the profits which it might be expected to make if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

(3) In the determination of the profits of a permanent establishment, there shall be allowed as deductions such expenses as are incurred for the purposes of the permanent establishment, including executive and other general administrative expenses, whether they are incurred in the State in which the permanent establishment is situated or elsewhere.

(4) In so far as it has been customary in one of the Contracting States to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise among its various parts, nothing in paragraph (2) of this article shall preclude the said State from determining the taxable profits on the basis of such an apportionment. The method of apportionment adopted shall, however, be such that the result is in accordance with the principles laid down in this article.

(5) No profits shall be attributed to a permanent establishment solely by reason of the purchase by the permanent establishment of goods 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 for proceeding otherwise.

#### Article 8

Income from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of actual management of the enterprise is situated.

#### Article 9

Where

(a) An enterprise of one of the Contracting States 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 one of the Contracting States and an enterprise of the other Contracting State,

and in either case conditions are arranged or imposed between the two enterprises in their commercial or financial relations which differ from those which would be arranged between independent enterprises, then any profits which, but for those conditions, would have accrued to one of the enterprises shall be included in the profits of that enterprise and taxed accordingly.

#### Article 10

(1) Dividends paid by a company which is a resident of one of the Contracting States to a resident of the other Contracting State shall be taxable only in the latter State.

(2) The term "dividends" as used in this article means income from shares, *jouissance* shares or *jouissance* rights, founders' shares or other rights, not being debt

claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the tax law of the State of which the company making the distribution is a resident.

(3) The provisions of paragraph (1) shall not apply if the recipient of the dividends, being a resident of one of the Contracting States, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the rights by virtue of which the dividends are paid are directly connected. In such a case, the provisions of article 7 concerning the taxation of income from permanent establishments shall apply.

(4) Where a company which is a resident of one of the Contracting States receives profits or income from the other Contracting State, that other State may not levy any tax on the dividends paid by the company to persons who are not residents of that other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other State.

#### *Article 11*

(1) Interest arising in one of the Contracting States and paid to a resident of the other Contracting State shall be taxable only in the latter State.

(2) The term "interest" as used in this article means income from deposits in banks or other financial institutions, from Government securities, from bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and from debt claims of every kind, as well as all other income which, under the tax law of the State in which the income arises, is assimilated to income from money lent.

(3) The provisions of paragraph (1) shall not apply if the recipient of the interest, being a resident of one of the Contracting States, has in the other Contracting State, in which the interest arises, a permanent establishment with which the debt claim from which the interest arises is directly connected. In such a case, the provisions of article 7 concerning the taxation of income from permanent establishments shall apply.

(4) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt claim for which it is paid, exceeds the amount which would have been agreed upon in the absence of the said relationship, the provisions of this article shall apply only to the last-mentioned amount. In such a case, the excess part of the payments shall be taxable in accordance with the law of the Contracting State concerned, due regard being had to the other provisions of this Agreement.



*Article 12*

(1) Royalties arising in one of the Contracting States and paid to a resident of the other Contracting State shall be taxable only in the latter State.

(2) The term "royalties" as used in this article means payments of any kind received as consideration for the use of or the right to use any copyright of literary, artistic or scientific work, including cinematograph films, or any patent, trade mark, design or model, plan, secret formula or process; for the use of or the right to use industrial, commercial or scientific equipment; or for information concerning industrial, commercial or scientific experience.

(3) The provisions of paragraph (1) shall not apply if the recipient of the royalties or profits, being a resident of one of the Contracting States, has in the other Contracting State, in which the royalties arise, a permanent establishment with which the rights or property giving rise to the royalties are directly connected. In such a case, the provisions of article 7 concerning the taxation of income from permanent establishments shall apply.

(4) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon in the absence of the said relationship, the provisions of this article shall apply only to the last-mentioned amount. In such a case, the excess part of the payments shall be taxable in accordance with the law of the Contracting State concerned, due regard being had to the other provisions of this Agreement.

*Article 13*

(1) Profits derived from the alienation of immovable property as defined in article 6, paragraph (2), shall be taxable in the Contracting State in which the property is situated.

(2) Profits derived from the alienation of assets other than immovable property which form part of the business property of a permanent establishment maintained by an enterprise of one of the Contracting States in the other Contracting State, or from the alienation of assets other than immovable property which pertain to a fixed base used by a resident of one of the Contracting States for the performance of professional services in the other Contracting State, including profits derived from the alienation of the permanent establishment (separately or together with the entire enterprise) or fixed base itself, shall be taxable in the latter State. Profits derived from the alienation of assets of the kind referred to in article 23, paragraph (3), shall be taxable only in the Contracting State which, under that article, is entitled to tax such assets.

(3) Profits derived from the alienation of assets other than as referred to in paragraphs (1) and (2) shall be taxable only in the Contracting State of which the person alienating the assets is a resident.

*Article 14*

(1) Income derived by a resident of one of the Contracting States in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, such part of that income as is attributable to that base shall be taxable in that other State.

(2) The term "professional services" specifically includes independent scientific, literary, artistic, educational or teaching activities and independent activities as a physician, dentist, lawyer, engineer, architect or accountant.

*Article 15*

(1) Subject to the provisions of articles 16, 17 and 19, salaries, wages and similar remuneration derived by a resident of one of the Contracting States in respect of personal services shall be taxable only in that State unless the services are performed in the other Contracting State. If the services are so performed, such remuneration as is derived therefrom shall be taxable in that other State.

(2) Notwithstanding the provisions of paragraph (1), remuneration derived by a resident of one of the Contracting States in respect of personal services performed in the other Contracting State shall be taxable only in the first-mentioned State if:

(a) The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days 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 charged against a permanent establishment or fixed base which the employer has in the other State.

(3) Notwithstanding the preceding provisions of this article, remuneration for personal services performed on board a ship or aircraft in international traffic shall be taxable in the Contracting State in which the place of actual management of the enterprise is situated. Foreign ships chartered on a so-called bareboat basis by an enterprise whose place of actual management is situated in one of the Contracting States shall in the foregoing connexion be placed on the same footing as ships owned by the enterprise.

(4) Where one of the Contracting States is prevented by its law from exercising the right of taxation provided for in paragraphs (1) and (3), tax may be imposed in the Contracting State of which the person concerned is a resident.

*Article 16*

(1) Directors' fees and similar payments derived by a resident of one of the Contracting States in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State shall be taxable in the latter State.

(2) Where one of the Contracting States is prevented by its law from exercising the right of taxation provided for in paragraph (1), tax may be imposed in the Contracting State of which the person concerned is a resident.

*Article 17*

(1) Notwithstanding anything contained in this Agreement, income derived by professional entertainers, such as theatre, motion-picture, radio or television performers and musicians, and by athletes, from their personal activities as such shall be taxable in the Contracting State in which those activities are carried on.

(2) Where one of the Contracting States is prevented by its law from exercising the right of taxation provided for in paragraph (1), tax may be imposed in the Contracting State of which the person concerned is a resident.

*Article 18*

Subject to the provisions of article 19, paragraph (1), pensions and similar remuneration paid in respect of past services shall be taxable only in the Contracting State of which the recipient is a resident.

*Article 19*

(1) Salaries, wages and similar remuneration, as well as pensions, including widows' and orphans' pensions, paid directly by, or out of funds created by, one of the Contracting States, a subdivision thereof or a public-law corporation or association to any individual in respect of services rendered as a civil servant shall be taxable in the State in which the remuneration or pensions are paid. The same shall apply to sums paid under a statutory social insurance scheme.

(2) The provisions of articles 15, 16 and 18 shall apply to remuneration and pensions paid in respect of services rendered in connexion with any trade or business

carried on by one of the Contracting States, a subdivision thereof or a public-law corporation or association.

(3) Where one of the Contracting States is prevented by its law from exercising the right of taxation provided for in paragraph (1), tax may be imposed in the Contracting State of which the individual concerned is a resident.

#### *Article 20*

Salaries, wages and similar remuneration which a professor or teacher who is a resident of one of the Contracting States receives, during a period of temporary residence not exceeding two years in the other Contracting State, for teaching at a university, college, school or other educational institution shall not be taxable in the latter State.

#### *Article 21*

Sums which a student or apprentice from one of the Contracting States receives for his maintenance, education or training while he is present in the other Contracting State solely for the purpose of education or training shall not be taxable in the latter State, provided that such sums are paid to him from sources outside that State.

#### *Article 22*

Income not expressly mentioned in the preceding articles of this Agreement shall be taxable only in the Contracting State of which the recipient is a resident.

#### *Article 23*

(1) Capital represented by immovable property as defined in article 6 shall be taxable in the Contracting State in which such property is situated.

(2) Capital represented by assets forming part of the business property of a permanent establishment of an enterprise or by assets pertaining to a fixed base used for the performance of professional services shall be taxable in the Contracting State in which the permanent establishment or fixed base is situated.

(3) Ships and aircraft operated in international traffic, and assets other than immovable property which are used in the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the place of actual management of the enterprise is situated.

(4) All other kinds of capital owned by a resident of one of the Contracting States shall be taxable only in that State.

*Article 24*

Where the income or capital of the undivided estate of a deceased person is taxable in one of the Contracting States under the provisions of this Agreement, participants in the estate shall not be taxed in respect of such income or capital in the other Contracting State.

*Article 25*

Where a person who for tax purposes is deemed to be a resident of one of the Contracting States derives income from, or owns capital in, the other Contracting State and such income or capital is taxable in that other State under the provisions of this Agreement, the first-mentioned State shall allow as a deduction from the tax on the said person's income or capital an amount equal to the portion of the tax on income or capital corresponding to the income or capital which the other Contracting State is entitled to tax.

*Article 26*

(1) The nationals of one of the Contracting States 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 the latter State in the same circumstances are or may be subjected.

(2) The term "nationals" means :

- (a) All individuals possessing the nationality of one of the Contracting States ;
- (b) All bodies corporate and associations constituted under the law in force in one of the Contracting States.

(3) A permanent establishment maintained in one of the Contracting States by an enterprise of the other Contracting State shall not be subjected in the first-mentioned State to taxation which is less favourable than that to which enterprises of that State carrying on the same activities are subjected.

*Article 27*

(1) Where a resident of one of the Contracting States considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Agreement, he may, notwithstanding the remedies provided by the national law of those States, present his case to the competent authority of the Contracting State of which he is a resident.

(2) The competent authority shall, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, endeavour to resolve

the case by agreement with the competent authority of the other Contracting State with a view to the avoidance of taxation not in accordance with this Agreement.

(3) The competent authorities of the Contracting States shall endeavour to resolve by agreement any difficulties or doubts arising in connexion with the interpretation or application of this Agreement. They may also consult each other with a view to the avoidance of double taxation in cases not provided for in this Agreement.

#### Article 28

(1) The competent authorities of the Contracting States shall exchange such information as is necessary for giving effect to this Agreement or for preventing tax evasion. All information so exchanged shall be treated as secret and may be disclosed only to persons or authorities which under the law of the Contracting State in question are concerned with the assessment or collection of the taxes which are the subject of this Agreement.

(2) In no case shall the provisions of paragraph (1) be so construed as to impose upon either Contracting State the obligation :

(a) To carry out administrative measures at variance with its laws or administrative practice or with the laws or administrative practice of the other Contracting State ;

(b) To supply particulars which are not obtainable under its laws or normal administrative practice or under the laws or normal administrative practice of the other Contracting State ;

(c) To exchange information which would disclose a trade, industrial or professional secret or whose publication might be contrary to the general interest (*ordre public*).

#### Article 29

This Agreement shall not affect tax exemptions to which diplomatic or consular officials may be entitled under the general rules of international law or by virtue of special agreements.

#### Article 30

(1) This Agreement may be extended, either in its entirety or with modifications, to the Faroe Islands and Greenland in so far as taxes are levied in those territories which are substantially similar in character to those referred to in article 2. The extension of the Agreement shall be specified and agreed upon by the Contracting States in notes exchanged for this purpose ; the said notes shall specify the date on

which the extension is to be effective and the modifications and conditions (including the conditions of termination) subject to which the Agreement is to be applied.

(2) The termination of this Agreement under article 32 shall, unless otherwise expressly agreed by the two Contracting States, terminate the application of the Agreement to any territory to which the Agreement has been extended under the present article.

#### *Article 31*

(1) This Agreement shall be ratified, and the instruments of ratification shall be exchanged at Helsinki as soon as possible.

(2) The Agreement shall enter into force upon the exchange of the instruments of ratification and shall apply for the first time :

(a) In Finland :

To taxes payable in respect of the fiscal year 1963 (assessment year 1964) ;

(b) In Denmark :

To taxes on income or capital levied on the basis of the assessment for the fiscal year 1964-1965.

Upon the entry into force of this Agreement, the Agreement of 2 December 1937<sup>1</sup> between the Republic of Finland and the Kingdom of Denmark for the avoidance of double taxation in the matter of direct taxes shall cease to have effect ; the latter Agreement shall, however, apply to taxes levied on the basis of assessments or revisions of assessments for years earlier than those referred to above.

#### *Article 32*

This Agreement shall remain in force until it is terminated by one of the Contracting States. Notice of termination shall be given at least six months before the end of a calendar year. If such period of notice is complied with, the Agreement shall apply for the last time :

(a) In Finland :

To taxes levied in respect of the fiscal year in which notice of termination is given ;

(b) In Denmark :

To taxes on income or capital levied on the basis of the assessment for the fiscal year beginning in the calendar year following the year in which notice of termination is given.

<sup>1</sup> League of Nations, *Treaty Series*, Vol. CLXXXVII, p. 379.

IN WITNESS WHEREOF the plenipotentiaries of the two Contracting States have signed the present Agreement and have thereto affixed their seals.

DONE at Helsinki on 7 April 1964 in duplicate, in the Finnish and Danish languages, both texts being equally authentic.

For the Republic of Finland :

Sigurd VON NUMERS

For the Kingdom of Denmark :

Holger BECH