

No. 11234

**FINLAND
and
NETHERLANDS**

Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and fortune (with protocol). Signed at Helsinki on 13 March 1970

Authentic texts: Finnish and Dutch.

Registered by Finland on 30 July 1971.

**FINLANDE
et
PAYS-BAS**

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 (avec protocole). Signée à Helsinki le 13 mars 1970

Textes authentiques : finnois et néerlandais.

Enregistrée par la Finlande le 30 juillet 1971.

[TRANSLATION — TRADUCTION]

AGREEMENT ¹ BETWEEN THE REPUBLIC OF FINLAND
AND THE KINGDOM OF THE NETHERLANDS FOR THE
AVOIDANCE OF DOUBLE TAXATION AND THE PRE-
VENTION OF FISCAL EVASION WITH RESPECT TO
TAXES ON INCOME AND FORTUNE

The President of the Republic of Finland and Her Majesty the Queen of the Netherlands, desiring to replace the Agreement between the Republic of Finland and the Kingdom of the Netherlands for the avoidance of double taxation and the establishment of rules of reciprocal administrative assistance with respect to taxes on income and property, signed at Helsinki on 29 March 1954,² as amended by the Supplementary Agreement signed at The Hague on 16 December 1966,³ by a new Agreement, have for that purpose appointed as their plenipotentiaries :

The President of the Republic of Finland :

Mr. Paul Gustafsson, Chief of Bureau ;

Her Majesty the Queen of the Netherlands :

Mr. E. L. Hechtermans, Ambassador Extraordinary and Plenipotentiary at Helsinki,

who, having exchanged their full powers, found in good and due form, have agreed as follows :

CHAPTER I

SCOPE OF THE AGREEMENT

Article 1

PERSONS COVERED BY THE AGREEMENT

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

¹ Came into force on 10 May 1971 by the exchange of the instruments of ratification, which took place at The Hague, in accordance with article 34.

² United Nations, *Treaty Series*, vol. 252, p. 185.

³ *Ibid.*, vol. 604, p. 364.

Article 2

TAXES COVERED BY THE AGREEMENT

1. This Agreement shall apply to taxes on income and fortune imposed on behalf of each of the States or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. The following shall be regarded as taxes on income and fortune : all taxes imposed on total income, on total fortune, or on elements of income or of fortune, including taxes on profits derived from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by the enterprises and taxes on capital appreciation.

3. The existing taxes to which this Agreement shall apply are, in particular :

(a) In the case of the Netherlands :

- The income tax (*de inkomstenbelasting*);
- The tax on wages and salaries (*de loonbelasting*);
- The company tax (*de vennootschapsbelasting*);
- The dividends tax (*de dividendbelasting*);
- The tax on directors' fees (*de commissarissenbelasting*);
- The fortune tax (*de vermogensbelasting*)

(hereinafter referred to as "Netherlands tax");

(b) In the case of Finland :

- The tax on income and fortune (*tulo- ja omaisuusvero*);
- The communal tax (*kunnallisvero*);
- The church tax (*kirkollisvero*);
- The sailors' tax (*merimiesvero*)

(hereinafter referred to as "Finnish tax").

4. This Agreement shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes. At the end of each year, the competent authorities of the States shall notify each other of any significant changes which have been made in their respective taxation laws.

CHAPTER II

DÉFINITIONS

Article 3

GENERAL DEFINITIONS

1. For the purpose of this Agreement, unless the context requires otherwise :

(a) The term "State" means the Netherlands or Finland as the context requires; the term "States" means the Netherlands and Finland;

(b) The term "Netherlands" covers that part of the Kingdom of the Netherlands which is situated in Europe and that part of the sea-bed and subsoil in the North Sea which, under international law, is subject to the sovereignty of the Kingdom of the Netherlands;

(c) The term "Finland" means the Republic of Finland, including any area outside the territorial sea of Finland within which, in accordance with international law and under the laws of Finland concerning the Continental Shelf, the rights of Finland with respect to the sea-bed and subsoil and their natural resources may be exercised;

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

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

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

(g) The term "competent authority" means :

(1) In the case of the Netherlands : the Minister of Finance or his authorized representative;

(2) In the case of Finland : the Ministry of Finance or its authorized representative.

2. In the application of the Agreement by each of the States, any term not otherwise defined shall, unless the context requires otherwise, have the meaning which it has under the laws of that State relating to the taxes which are the subject of the Agreement.

Article 4

FISCAL DOMICILE

1. For the purposes of this Agreement, the term "resident of one of the States" means any person who, under the law of the State concerned, is liable to taxation therein by reason of his domicile, residence, place of management or any other similar criterion.

2. For the purpose of this Agreement, an individual who is a member of a diplomatic or consular mission of one of the States in the other State or in a third State and who is a national of the sending State shall be deemed to be a resident of the sending State.

3. Where under the provisions of paragraph 1 an individual is a resident of both States, the case shall be determined in accordance with the following rules :

(a) He shall be deemed to be a resident 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 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 no permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has a habitual abode;

(c) If he has a habitual abode in both States or in neither 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 States or of neither of them, the competent authorities of the States shall settle the question by agreement.

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

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business in which the activity of the enterprise is wholly or partly carried on.

2. The term "permanent establishment" shall include especially :
 - (a) A place of management;
 - (b) A branch;
 - (c) An office;
 - (d) A factory;
 - (e) A workshop;
 - (f) A mine, quarry or other place of extraction of natural resources;
 - (g) A building site or construction or assembly project which exists for more than 12 months.
3. The term "permanent establishment" shall not be deemed to include :
 - (a) The use of facilities solely for the purpose of storage, display or delivery 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, display or delivery;
 - (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 collecting information for the enterprise;
 - (e) The maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.
4. A person acting in one of the States on behalf of an enterprise of the other State, other than an independent agent to whom paragraph 5 applies, shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.
5. An enterprise of one of the States shall not be deemed to have a permanent establishment in the other State merely because it carries on business in that other State through a broker, general commission agent or other independent agent, where such persons are acting in the ordinary course of their business.
6. The fact that a company which is a resident of one of the States controls or is controlled by a company which is a resident of the other

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.

CHAPTER III

TAXATION OF INCOME

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income from immovable property may be taxed in the State in which such property is situated.

2. The term "immovable property" shall be defined in accordance with the laws of the State in which the property in question 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 private law respecting landed property apply, usufruct of immovable property and rights to fixed or variable 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 income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

Article 7

INCOME FROM BUSINESS

1. The profits of an enterprise of one of the States shall be taxable only in that State unless the enterprise carries on business in the other State through a permanent establishment situated therein. If the enterprise

carries on business as aforesaid, tax may be imposed in the other State on the profits of the enterprise but only on so much of them as is attributable to the permanent establishment.

2. Where an enterprise of one of the States carries on business in the other State through a permanent establishment situated therein, there shall in each State be attributed to that permanent establishment the profits which it might have been expected to make if it had been a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing quite independently with the enterprise of which it is a permanent establishment.

3. In calculating the profits of a permanent establishment, there shall be allowed as deductions expenses, including executive and general administrative expenses, which are incurred for the purposes of the permanent establishment, whether 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 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 shall preclude that 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 laid down 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 for proceeding otherwise.

7. Where profits include elements of income which are dealt with separately in other articles of this Agreement, the provisions of such articles shall not be affected by the provisions of this article.

Article 8

SHIPPING AND AIR TRANSPORT

1. Profits derived from the operation of ships or aircraft in international traffic shall be taxable in the State in which the place of actual management of the enterprise is situated.

2. If the place of actual management of a shipping enterprise is on board a ship, it shall be deemed to be situated in the State in which the home harbour of the ship is situated or, if there is no such home harbour, in the State of which the operator of the ship is a resident.

Article 9

ASSOCIATED ENTERPRISES

Where :

- (a) An enterprise of one of the States participates directly or indirectly in the management, control or capital of an enterprise of the other State, or
- (b) The same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the States and an enterprise of the other 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 but for those conditions would have accrued to one of the enterprises but which by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly.

Article 10

DIVIDENDS

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

2. However, the State of which the company paying the dividends is a resident may tax such dividends according to its own law, but the rate of the tax which it charges may not exceed 15 per cent of the gross amount of the dividends.

3. Notwithstanding the provisions of paragraph 2, the State of which the company is a resident may not levy any tax on dividends paid by the said company to a company whose capital is wholly or partly divided into shares and which is a resident of the other State and holds directly at least 25 per cent of the capital of the company paying the dividends.

4. The competent authorities of the States shall determine by agreement the mode of application of paragraphs 2 and 3.

5. The provisions of paragraphs 2 and 3 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

6. 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 assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident.

7. The provisions of paragraphs 1, 2 and 3 shall not apply if the recipient of the dividends, being a resident of one of the States, has in the other State, of which the company paying the dividends is a resident, a permanent establishment which has actual control over the holding by virtue of which the dividends are paid. In that case, the provisions of article 7 shall apply.

8. Where a company which is a resident of one of the States receives profits or income from the other 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 such other State.

Article 11

INTEREST

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

2. The competent authorities of the States shall determine by agreement the manner in which the State where the interest arises shall forgo its taxation.

3. The term "interest" as used in this article means income from Governments securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

4. The provisions of paragraph 1 shall not apply if the recipient of the interest, being a resident of one of the States, has in the other State,

in which the interest arises, a permanent establishment with which the debt-claim from which the interest arises is actually connected. In that case, the provisions of article 7 shall apply.

5. Without prejudice to the provisions of paragraph 6 of this article, any provision of the law of one of the States which requires interest payable by an enterprise to be left out of account as a deduction in computing the taxable profits of the enterprise shall not apply to interest payable to a resident of the other State if the said resident is liable to income tax in respect of that interest in the latter State.

6. 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 by the payer and the recipient 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 be taxable according to the law of each of the States, due regard being had to the other provisions of this Agreement.

Article 12

ROYALTIES

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

2. The term "royalties" as used in this article means payments of any kind received as a 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, or secret formula or process, or 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, being a resident of one of the States, has in the other State, in which the royalties arise, a permanent establishment with which the right or property giving rise to the royalties is actually connected. In that case, the provisions of article 7 shall apply.

4. Without prejudice to the provisions of paragraph 5 of this article, any provision of the law of one of the States which require royalties payable

by an enterprise to be left out of account as a deduction in computing the taxable profits of the enterprise shall not apply to royalties payable to a resident of the other State if the said resident is liable to income tax in respect of those royalties in the latter State.

5. 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 by the payer and the recipient 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 payment shall be taxable according to the law of each of the States, due regard being had to the other provisions of this Agreement.

Article 13

LIMITATION OF ARTICLES 10, 11 AND 12

International organizations, their organs and officials, and members of diplomatic or consular missions of third States who are present in one of the States shall not be entitled in the other State to the tax reductions or exemptions provided for in articles 10, 11 and 12 in respect of dividends, interest and royalties arising in that other State if such income is not subject to income tax in the first-mentioned State.

Article 14

CAPITAL GAINS

1. Profits derived from the alienation of immovable property, as defined in article 6, paragraph 2, may be taxed in the State in which such property is situated.

2. Profits derived from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of one of the States has in the other State or of movable property pertaining to a fixed base available to a resident of one of the States in the other State for the practice of a profession, including profits derived from the alienation of such a permanent establishment (alone or together with the whole enterprise) or fixed base, may be taxed in the other State.

3. Notwithstanding the provisions of paragraph 2, profits derived from the alienation of ships or aircraft operated in international traffic and of movable property pertaining to the operation of such ships and aircraft shall be taxable in the State in which the place of actual management of the enterprise is situated. The provisions of article 8, paragraph 2, shall apply.

4. Profits derived from the alienation of any property other than that specified in paragraphs 1, 2 and 3 shall be taxable only in the State of which the alienator is a resident.

5. The provisions of paragraph 4 shall not affect the right of each State to levy taxes, according to its own law, on profits derived from the alienation of shares or *jouissance* shares in a company whose capital is wholly or partly divided into shares and which is a resident of that State, where the profits are derived by an individual who is a resident of the other State and who has been during the last five years preceding the alienation of the shares or *jouissance* shares a resident of the first-mentioned State.

Article 15

INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of one of the States from the practice of a profession or from 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 State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

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

Article 16

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of articles 17, 19, 20, 21 and 22, salaries, wages and other similar remuneration derived by a resident of one of the States in respect of an employment shall be taxable only in that State

unless the employment is exercised in the other 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 one of the States in respect of an employment exercised in the other 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 borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this article, remuneration derived by a resident of one of the States in respect of an employment exercised on board a ship or aircraft in international traffic shall be taxable only in that State.

Article 17

DIRECTORS' FEES

1. Directors' fees and similar payments received by a resident of the Netherlands in his capacity as a member of the board of directors of a company which is a resident of Finland may be taxed in Finland.

2. Remuneration and other payments received by a resident of Finland in his capacity as a *bestuurder* or *commissaris* of a company which is a resident of the Netherlands may be taxed in the Netherlands.

Article 18

ARTISTS AND ATHLETES

Notwithstanding the provisions of articles 15 and 16, income derived by professional entertainers, such as theatre, motion picture, radio or television artists, and musicians, and by athletes, from their personal activities as such may be taxed in the State in which these activities are exercised.

Article 19

PENSIONS

Subject to the provisions of article 20, paragraph 1, pensions and other similar remuneration paid to a resident of one of the States in consideration of past employment shall be taxable only in that State.

Article 20

GOVERNMENTAL FUNCTIONS

1. Remuneration, including pensions, paid by, or out of funds created by, one of the States or a political subdivision or local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof in the discharge of functions of a governmental nature may be taxed in that State.

2. However, the provisions of articles 16, 17 and 19 shall apply to remuneration or pensions in respect of services rendered in connexion with any trade or business carried on by one of the States or a political subdivision or local authority thereof.

Article 21

PROFESSORS AND TEACHERS

1. Remuneration received by a professor or teacher who is a resident of one of the States and visits the other State for the purpose of teaching or engaging in scientific research at a university, college or other educational or scientific research establishment in the latter State for a period not exceeding two years shall be taxable only in the first-mentioned State.

2. This article shall not apply to income derived from scientific research if such research is conducted not in the public interest but primarily for the private benefit of a specific person or persons.

Article 22

STUDENTS

1. Payments which a student or business apprentice who is or was formerly a resident of one of the States and who is present in the other State solely for the purpose of his education or training receives for the

purpose of his maintenance, education or training shall not be taxed in that other State, provided that such payments are made to him from sources outside that other State.

2. Remuneration received by a student at a university, college, school or similar educational establishment in one of the States in respect of activities or personal services performed in the other State during a period or periods not exceeding in the aggregate 100 days in any fiscal year for the purpose of obtaining practical experience in connexion with his education or training shall not be taxable in that other State.

Article 23

INCOME NOT EXPRESSLY MENTIONED

Items of income of a resident of one of the States which are not expressly mentioned in the preceding articles of this Agreement shall be taxable only in that State.

CHAPTER IV

TAXATION OF FORTUNE

Article 24

1. Fortune represented by immovable property, as defined in article 6, paragraph 2, may be taxed in the State in which such property is situated.

2. Fortune represented by movable property forming part of the business property of a permanent establishment of an enterprise, or by movable property pertaining to a fixed base used for the performance of professional services, may be taxed in the State in which the permanent establishment or fixed base is situated.

3. Ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft may be taxed in the State in which the place of actual management of the enterprise is situated. The provisions of article 8, paragraph 2, shall apply.

4. All other elements of fortune of a resident of one of the States shall be taxable only in that State.

CHAPTER V

METHODS FOR ELIMINATION OF DOUBLE TAXATION

Article 25

1. Each of the States may, in levying taxes on its residents, include in the basis on which the tax is computed the items of income and elements of fortune which under the provisions of this Agreement are taxable in the other State.

2. Subject to the application of those provisions of the domestic regulations for the avoidance of double taxation which concern the setting-off of losses, the Netherlands shall allow a deduction from the tax computed in accordance with paragraph 1 of this article. The deduction shall be equal to that part of the said tax which is in the same ratio to the tax as the part of the income or fortune which is included in the basis referred to in paragraph 1 of this article and may be taxed in Finland according to articles 6, 7, 8, 10 (paragraph 7), 11 (paragraph 4), 12 (paragraph 3), 14 (paragraphs 1, 2 and 3), 15, 16 (paragraph 1), 17 (paragraph 1), 18, 20 and 24 (paragraph 1, 2 and 3) of this Agreement is to the total income or fortune which forms the basis referred to in paragraph 1 of this article.

Further, the Netherlands shall allow a deduction from the tax so computed for such items of income as may be taxed in Finland according to articles 10 (paragraph 2) and 14 (paragraph 5) and are included in the basis referred to in paragraph 1 of this article. The amount of the deduction shall be the lesser of the following amounts :

- (a) An amount equal to the Finnish tax;
- (b) The amount of the Netherlands tax which is in the same ratio to the amount of tax computed in accordance with paragraph 1 of this article as the amount of the said items of income is to the amount of income which forms the basis referred to in paragraph 1 of this article.

3. Where a resident of Finland receives income or owns fortune which under the provisions of this Agreement may be taxed in the Netherlands, Finland shall, subject to the provisions of paragraph 4 of this article, allow as a deduction from the Finnish tax that part of the Finnish tax which is appropriate to the income received from or the fortune owned in the Netherlands.

4. Where a resident of Finland receives income which under the provisions of article 10 may be taxed in the Netherlands, Finland shall

allow as a deduction from the Finnish tax on the income of that person an amount equal to the tax paid in the Netherlands. Such deduction shall not, however, exceed that part of the Finnish tax, as computed before the deduction is given, which is appropriate to the income derived from the Netherlands.

5. Notwithstanding the provisions of paragraph 4 of this article, dividends paid by a company which is a resident of the Netherlands to a company which is a resident of Finland shall be exempt from Finnish tax. This exemption shall not apply unless in accordance with the law of Finland the dividends would have been exempt from Finnish tax if the first-mentioned company had been a resident of Finland and not a resident of the Netherlands.

CHAPTER VI

SPECIAL PROVISIONS

Article 26

NON-DISCRIMINATION

1. Nationals of one of the States, whether of not they are residents of that State, shall not be subjected in the other 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 are or may be subjected.

2. The term “nationals” means :

- (a) All individuals possessing the nationality of one of the States;
- (b) All bodies corporate, partnerships and associations deriving their status as such from the law in force in one of the States.

3. The taxation on a permanent establishment which an enterprise of one of the States has in the other 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 either State to grant to residents of the other 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.

4. Enterprises of one of the States whose capital is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other 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 that first-mentioned State are or may be subjected.

5. In this article, the term "taxation" means taxes of every kind and description.

Article 27

MUTUAL AGREEMENT PROCEDURE

1. Where a resident of one of the States considers that the actions of one or both of the 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 State of which he is a resident.

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

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

4. The competent authorities of the States may communicate with each other directly for the purpose of reaching an agreement in sense of the preceding paragraphs.

Article 28

EXCHANGE OF INFORMATION

The competent authorities of the States shall exchange such information (being information which the said authorities have in proper order at their disposal) as is necessary for carrying out the provisions of this Agreement, and particularly for giving effect to statutory provisions for the prevention of fraud and evasion in relation to the taxes which are the

subject of this Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment or collection of the taxes which are the subject of this Agreement.

Article 29

ASSISTANCE

1. The States undertake to lend assistance to each other in the collection of the taxes which are the subject of this Agreement, including interest, costs, additions to taxes, and fines of a non-penal character.

2. In the case of applications for the collection of taxes, tax claims of each State which have been finally determined shall be accepted for collection by the other State and collected in that State in accordance with the law applicable to the collection of its own taxes, provided that such claims shall not enjoy priority in the latter State. Finnish tax claims shall be regarded as finally determined when they can no longer be altered in the normal course of administrative appeal. The State applied to shall not be required to enforce executory measures for which there is no provision in the law of the applicant State.

3. All applications must be accompanied by documents establishing that under the law of the applicant State the taxes have been finally determined as provided in paragraph 2 of this article.

4. The assistance provided for in this article shall not be accorded with respect to nationals or companies of the State applied to.

Article 30

LIMITATION OF ARTICLES 28 AND 29

The provisions of articles 28 and 29 shall not be construed as imposing on either State the obligation :

(a) To carry out administrative measures at variance with the law or the administrative practice of that State or of the other State;

(b) To supply information which is not obtainable under the law or in the normal course of the administration of that State or of the other State;

(c) To supply information which would disclose any trade, business, industrial, or professional secret or trade process, or information the disclosure of which would be contrary to public policy.

Article 31

DIPLOMATIC AND CONSULAR OFFICIALS

The provisions of this Agreement shall not affect the tax privileges of diplomatic or consular officials under the general rules of international law or the provisions of special agreements.

Article 32

REGULATIONS

1. The competent authorities of each State may, in accordance with the practice of that State, establish such regulations as are necessary to carry out the provisions of this Agreement.

2. With respect to the provisions of this Agreement relating to the exchange of information and mutual assistance in the collection of taxes, the competent authorities may, by agreement, establish rules concerning matters of procedure, forms for application and replies thereto, conversion of currency, the disposition of sums collected, minimum amounts subject to collection, and related matters.

Article 33

TERRITORIAL EXTENSION

1. This Agreement may be extended, either in its entirety or with any necessary modifications, to Surinam or the Netherlands Antilles or both those countries if the country in question imposes taxes substantially similar to those to which this Agreement applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed upon in notes to be exchanged through the diplomatic channel.

2. Unless otherwise agreed, the termination of this Agreement shall not terminate its application to any country to which it has been extended under this article.

CHAPTER VII

FINAL PROVISIONS

Article 34

ENTRY INTO FORCE

1. This Agreement shall be ratified, and the instrument of ratification shall be exchanged at The Hague as soon as possible.

2. The Agreement shall enter into force upon the exchange of the instruments of ratification, and its provisions shall apply in respect of any fiscal year or fiscal period beginning on or after 1 January 1968.

3. The Agreement between the Kingdom of the Netherlands and the Republic of Finland for the avoidance of double taxation and the establishment of rules of reciprocal administrative assistance with respect to taxes on income and property, signed at Helsinki on 29 March 1954, as amended by the Supplementary Agreement signed at The Hague on 16 December 1966, shall cease to have effect¹ on the date on which the provisions of this Agreement take effect. The provisions of the first-mentioned Agreement shall, however, continue to apply in respect of any fiscal year or fiscal period completed before the date on which the provisions of this Agreement take effect.

Article 35

TERMINATION

This Agreement shall remain in force until denounced by one of the High Contracting Parties. Either Party may denounce the Agreement, through the diplomatic channel, by giving notice of termination at least six months before the end of any calendar year after 1974.

In that event, the Agreement shall cease to apply in respect of any fiscal year or fiscal period beginning after the end of the calendar year in which notice is given.

¹ See p. 132 of this volume.

IN WITNESS WHEREOF the above-mentioned plenipotentiaries have signed this Agreement and have thereto affixed their seals.

DONE at Helsinki on 13 March 1970, in duplicate in the Finnish and Dutch languages, both texts being equally authentic.

For the Republic of Finland :

PAUL GUSTAFSSON

For the Kingdom of the Netherlands :

HECHTERMANS

PROTOCOL

On signing the Agreement concluded this day between the Republic of Finland and the Kingdom of the Netherlands for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and fortune, the undersigned plenipotentiaries have agreed that the following provisions shall form an integral part of the Agreement :

I

1. Where, under the provisions of the Agreement, a resident of the Netherlands is exempt from, or entitled to a reduction of, Finnish taxes, a similar exemption or reduction shall apply in respect of any undistributed estate, in so far as one or more of the beneficiaries are residents of the Netherlands.

2. Where income from, or fortune forming part of, an undistributed estate which under provisions of the Agreement is subject to Finnish taxation accrues to a beneficiary who is a resident of the Netherlands, the Netherlands shall allow a deduction in accordance with article 25, paragraph 2, of the Agreement.

II

Ad article 4

Individuals living on board a ship and having no domicile in either State shall be deemed to be residents of the State in which the ship has its home harbour.

III

Ad article 10

Applications for the refund of taxes collected contrary to the provisions of article 10 must be submitted to the competent authority of the State which collected the tax within a period of three years following the end of the calendar year in which the tax was collected.

IV

Ad article 20

In the application of the provisions of article 20, Finnish public corporations shall be placed on an equal footing with Finland or any political subdivision or local authority thereof.

V

Ad article 25

It is understood that, in so far as relates to the Netherlands income tax or company tax, the basis referred to in article 25, paragraph 1, shall be the *onzuivere inkomen* (total net income) or *winst* (profits) within the meaning of the Netherlands laws relating to the income tax or the company tax, as the case may be.

VI

Ad article 26; paragraph 4

It is understood that costs incurred by an enterprise of one of the States and payable to a resident of the other State shall, in computing the taxable profits of the enterprise, be deductible under the same conditions as if the said costs were payable to a resident of the first-mentioned State.

VII

Ad *article 28*

The obligation to exchange information shall not apply to information obtained from banks or equivalent institutions. The term "equivalent institutions" means, *inter alia*, insurance companies.

VIII

Ad *article 29*

The Netherlands shall not be required to imprison any person for the purpose of collecting taxes.

IN WITNESS WHEREOF the undersigned, being duly authorized for the purpose, have signed this Protocol and have thereto affixed their seals.

DONE at Helsinki on 13 March 1970, in duplicate in the Finnish and Dutch languages, both texts being equally authentic.

For the Republic of Finland :

PAUL GUSTAFSSON

For the Kingdom of the Netherlands :

HECHTERMANS
