

No. 10987

**FINLAND
and
UNITED STATES OF AMERICA**

**Convention with respect to taxes on income and property.
Signed at Washington on 6 March 1970**

Authentic texts: Finnish and English.

Registered by Finland on 3 March 1971.

**FINLANDE
et
ÉTATS-UNIS D'AMÉRIQUE**

**Convention concernant les impôts sur le revenu et la fortune.
Signée à Washington le 6 mars 1970**

Textes authentiques : finnois et anglais.

Enregistrée par la Finlande le 3 mars 1971.

CONVENTION¹ BETWEEN THE REPUBLIC OF FINLAND
AND THE UNITED STATES OF AMERICA WITH
RESPECT TO TAXES ON INCOME AND PROPERTY

The President of the Republic of Finland and the President of the United States of America, desiring to conclude a convention for the avoidance of double taxation of income and property and the prevention of fiscal evasion have appointed for that purpose as their respective Plenipotentiaries:

The President of the Republic of Finland:

Olavi Munkki, Ambassador Extraordinary and Plenipotentiary of the Republic of Finland at Washington; and

The President of the United States of America:

William P. Rogers, Secretary of State of the United States of America, who have agreed upon the following articles:

Article 1

TAXES COVERED

1. The taxes which are the subject of the present Convention are:
 - a) in the case of the United States, the Federal income tax, imposed by the Internal Revenue Code, hereinafter referred to as the "United States tax", but not including the United States personal holding company tax and accumulated earnings tax, and
 - b) in the case of Finland:
 - i) the State (national) income and capital tax (*tulo- ja omaisuusvero*),
 - ii) the Communal tax (*kunnallisvero*), and
 - iii) the Sailors' tax (*merimiesvero*),hereinafter referred to as the "Finnish tax".
2. The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes.

¹ Came into force on 28 February 1971, i.e., two months after the exchange of the instruments of ratification, which took place at Helsinki on 30 December 1970, in accordance with article 31(1).

3. For the purpose of Article 7 (Non-discrimination), this Convention shall also apply to taxes of every kind and to those imposed at the national, state, and local level.

Article 2

GENERAL DEFINITIONS

1. In this Convention, unless the context otherwise requires:

a) The term “United States” means the United States of America and when used in the geographical sense means the States thereof and the District of Columbia.

b) The term “Finland” means the Republic of Finland.

c) The term “a Contracting State” or “the other Contracting State” means Finland or the United States, as the context requires.

d) The term “person” comprises an individual or a corporation, or any other body of individuals or persons.

e) i) The term “United States corporation” or “corporation of the United States” means a corporation or any entity treated as a corporation for United States tax purposes, which is created or organized under the laws of the United States or any State thereof or the District of Columbia; and

ii) The term “Finnish corporation” or “corporation of Finland” means a corporation or any entity treated as a corporation for Finnish tax purposes, which is created or organized under the laws of Finland.

f) The term “competent authority” means:

i) in the case of the United States, the Secretary of the Treasury or his delegate, and

ii) in the case of Finland, the Ministry of Finance or its authorized representative.

g) The term “State” means any National State, whether or not one of the Contracting States.

2. In the application of the provisions of the present Convention by one of the Contracting States, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the present Convention. Notwithstanding the previous sentence, if the meaning of such a term under the laws of one Contracting State is different from the meaning of the term under the laws of the other Contracting

State, the competent authorities of the Contracting States may, in order to prevent double taxation or further any other purpose of this Convention, establish a common meaning of the term for the purposes of this Convention.

Article 3

FISCAL DOMICILE

1. The term “resident of Finland” means:

- a) a Finnish corporation, and
- b) any other person (except a corporation or any entity which under Finnish law is treated as a corporation) who is resident in Finland for purposes of its tax, but in the case of a person acting as a partner or fiduciary only to the extent that the income derived by such person in that capacity is taxable as the income of a resident.

2. The term “resident of the United States” means:

- a) a United States corporation, and
- b) any other person (except a corporation or any entity treated under United States law as a corporation) who is resident in the United States for purposes of its tax, but in the case of a person acting as a partner or fiduciary only to the extent that the income derived by such person in that capacity is taxable as the income of a resident.

3. An individual who is a resident in both Contracting States shall be deemed a resident of that Contracting State in which he maintains his permanent home. If he has a permanent home in both Contracting States, or in neither of the Contracting States, he shall be deemed a resident of that Contracting State with which his personal and economic relations are closest (center of vital interests). If the Contracting State in which he has his center of vital interests cannot be determined, he shall be deemed a resident of that Contracting State in which he has a habitual abode. If he has a habitual abode in both Contracting States or in neither of the Contracting States, the competent authorities of the Contracting States shall settle the question by mutual agreement. An individual who is deemed to be a resident of one Contracting State and not a resident of the other Contracting State by reason of the provisions of this paragraph

shall be deemed a resident only of the former State for all purposes of this Convention, including Article 4 (General Rules of Taxation).

Article 4

GENERAL RULES OF TAXATION

1. A resident of one of the Contracting States shall be taxed by the other Contracting State only on income from sources within that other Contracting State, in accordance with the limitations set forth in the present Convention.

2. The provisions of the present Convention shall not be construed to restrict in any manner any exclusion, exemption, deduction, credit, or other allowance now or hereafter accorded:

a) by the laws of one of the Contracting States in the determination of the tax imposed by that State, or

b) by any other agreement between the Contracting States.

3) The United States may tax its citizens and residents as if the present Convention had not come into effect.

a) This provision shall not affect the rules laid down in Articles 5 (Relief from Double Taxation), 7 (Non-discrimination), and 25 (Social Security Payments).

b) This provision shall not affect the rules laid down in Articles 20 (Teachers), 21 (Students and Trainees), 22 (Governmental Functions), and paragraphs 1 and 2 of Article 23 (Rules Applicable to Personal Income Articles) when applicable to individuals who are not citizens of the United States and who do not have immigrant status in the United States.

4. Any income from sources within a Contracting State to which the provisions of the present Convention are not expressly applicable shall be taxable by such Contracting State in accordance with its own law.

Article 5

RELIEF FROM DOUBLE TAXATION

Double taxation of income shall be avoided in the following manner:

1. The United States shall allow to a citizen or resident of the United States as a credit against the United States tax the appropriate amount of

Finnish tax (excluding the capital tax). Such appropriate amount shall be based upon the amount of income tax paid to Finland but shall not exceed that portion of the United States tax which net income from sources within Finland bears to the entire net income. For the purpose of applying the United States credit in relation to taxes paid to Finland, the rules set forth in Article 6 (Source of Income) shall be applied to determine the source of income.

2. *a)* Where a resident of Finland derives income from sources within the United States or owns capital which is located in the United States and which, in accordance with the provisions of this Convention, may be taxed in the United States, Finland shall, except as provided in subparagraph *b*, allow as a deduction from Finnish income tax or capital tax that part of the Finnish income tax or capital tax, respectively, attributable to such income or capital.

b) Where a resident of Finland derives dividends from sources within the United States, Finland shall allow as a deduction from the Finnish tax on such dividends an amount equal to the United States tax paid on such dividends. Such deduction shall not exceed that part of Finnish tax which the dividends from sources within the United States bears to the entire net income subject to tax in Finland.

c) Notwithstanding the provisions of subparagraph *b* of this paragraph, dividends paid by a United States corporation to a Finnish corporation shall be exempt from Finnish tax. This exemption shall not apply unless in accordance with the laws of Finland the dividends would have been exempt from Finnish tax if the first-mentioned corporation had been a Finnish corporation and not a United States corporation.

d) Finland, in determining its taxes specified in Article 1 of this Convention, shall exclude from the base upon which such taxes are imposed such items of income or capital which are taxable only in the United States or which are exempt from Finnish tax under the provisions of this Convention, but the income or capital thus excluded may be taken into the graduated rate of Finnish tax to be imposed on residents of Finland.

Article 6

SOURCE OF INCOME

For purposes of this Convention:

1. Dividends shall be treated as income from sources within a Con-

tracting State only if—

- a) paid by a corporation of that Contracting State, or
- b) paid by a corporation of any State if, for the 3-year period ending with the close of such corporation's taxable year preceding the declaration of the dividends (or for such part of that period as such corporation has been in existence), at least 80 percent of such corporation's gross income from all sources was industrial or commercial profits attributable to a permanent establishment which such corporation had in that Contracting State.

If a dividend would be treated under this paragraph as income from sources within both Contracting States, it shall be deemed to be income from sources within only the Contracting State described in subparagraph *b*.

2. Interest shall be treated as income from sources within a Contracting State only if—

- a) paid by such Contracting State, including any political subdivision thereof, or by a resident of that Contracting State, or
- b) paid by a corporation of any State if, for the 3-year period ending with the close of such corporation's taxable year preceding the payment of the interest (or for such part of such period as such corporation has been in existence), at least 80 percent of such corporation's gross income from all sources was industrial or commercial profits attributable to a permanent establishment which such corporation had in that Contracting State.

If interest would be treated under this paragraph as income from sources within both Contracting States, it shall be deemed to be income from sources within only the Contracting State described in subparagraph *b*.

3. Royalties described in paragraph 2 of Article 14 (Royalties), for the use of or privilege of using property described in such paragraph, shall be treated as income from sources within a Contracting State only if paid for the use of or privilege of using such property within that Contracting State.

4. Income from real property (including gains derived from the sale of such property, but not including interest from mortgages or bonds secured

by real property) and royalties from the operation of mines, quarries, or other natural resources shall be treated as income from sources within a Contracting State only if such property is located in that Contracting State.

5. Income from the rental of tangible personal (movable) property shall be treated as income from sources within a Contracting State only if such property is located in that Contracting State.

6. Income received by an individual for his performance of personal services (whether as an employee or in an independent capacity) shall be treated as income from sources within a Contracting State only if such services are performed in that Contracting State. If services are performed partly within and partly outside a Contracting State, income from the performance of such services shall be treated as income from sources partly within and partly outside that Contracting State. Income from personal services (including pensions and annuities paid in respect of such services) performed aboard ships or aircraft operated by a resident of a Contracting State and registered in that Contracting State shall be treated as income from sources within that Contracting State, if rendered by a member of the regular complement of the ship or aircraft.

7. Income from the purchase and sale of tangible or intangible personal (including movable) property shall be treated as income from sources within a Contracting State only if such property is sold in that Contracting State.

8. Notwithstanding paragraphs 1-7, industrial and commercial profits which are attributable to a permanent establishment which the recipient, a resident of one of the Contracting States, has in the other Contracting State, including income dealt with in Articles 12 (Dividends), 13 (Interest), 14 (Royalties), 15 (Income from Real Property), and 16 (Capital Gains) derived from rights or property which are effectively connected with such permanent establishment, shall be treated as income from sources within that other Contracting State. For the purposes of this Convention, to determine whether property is effectively connected with a permanent establishment, the factors taken into account shall include whether the property is used in or held for use in carrying on business through such permanent establishment, and whether the activities carried on through such permanent establishment were a material factor in the realization of the

income derived from such property. For this purpose, due regard shall be given to whether or not such asset or such income was accounted for through such permanent establishment.

9. The source of any item of income to which the provisions of this Article are not expressly applicable shall be determined by each of the Contracting States in accordance with its own law. Notwithstanding the previous sentence, if the source of any item of income under the laws of one Contracting State is different from the source of such item of income under the laws of the other Contracting State, the competent authorities of the Contracting States may, in order to prevent double taxation or further any other purpose of this Convention, establish a common source of the item of income for purposes of this Convention.

Article 7

NON-DISCRIMINATION

1. A citizen of one of the Contracting States who is a resident of the other Contracting State shall not be subjected in that other Contracting State to more burdensome taxes than is a citizen of that other Contracting State who is a resident thereof.

2. The taxation of a permanent establishment which a resident of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on a resident 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. A corporation 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 Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which a corporation of that first-mentioned Contracting State carrying on the same activities, the capital of which is wholly owned by one or more residents of the first-mentioned State, is or may be subjected.

*Article 8***BUSINESS PROFITS**

1. Industrial or commercial profits of a resident of one of the Contracting States shall be taxable only in that State unless such resident is engaged in industrial or commercial activity in the other Contracting State through a permanent establishment situated therein. If such resident is so engaged, tax may be imposed by such other State on the industrial or commercial profits of such resident but only on so much of such profits as are attributable to the permanent establishment.

2. Where a resident 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 industrial or commercial profits which would be attributable to such permanent establishment if such permanent establishment were an independent entity engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the resident of which it is a permanent establishment.

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are reasonably connected with such profits including executive and general administrative expenses, whether incurred in the State in which the permanent establishment is situated or elsewhere.

4. No profits shall be attributed to a permanent establishment merely by reason of the purchase of goods or merchandise by that permanent establishment, or by the resident of which it is a permanent establishment, for the account of that resident.

5. The term "industrial or commercial profits of a resident" includes income derived from manufacturing, mercantile, agricultural, fishing, or mining activities, from the operation of ships or aircraft, from the furnishing of personal services, from the rental of tangible personal property, and from insurance activities and rents or royalties derived from motion picture films, films or tapes of radio or television broadcasting. It also includes income derived from real property and natural resources and dividends, interest, royalties (as defined in paragraph 2 of Article 14), and capital gains but only if the right or property giving rise to such income, dividends, interest, royalties, or capital gains is effectively connected with a permanent establishment which the recipient, being a resident of one Contracting State, has in the other Contracting State. It does not include income received by

an individual as compensation for personal services either as an employee or in an independent capacity.

Article 9

PERMANENT ESTABLISHMENT

1. For the purpose of this Convention, the term “permanent establishment” means a fixed place of business through which a resident of one of the Contracting States engages in industrial or commercial activity.

2. The term “permanent establishment” shall include especially:

- a) a seat of management;
- b) a branch;
- c) an office;
- d) a factory;
- e) a workshop;
- f) a warehouse;
- g) a mine, quarry, or other place of extraction of natural resources;
- h) a building site or construction or assembly project which exists for more than 12 months.

13. Notwithstanding paragraphs 1 and 2 of this Article, a permanent establishment shall not include a fixed place of business used only for one or more of the following activities:

- a) the use of facilities for the purpose of storage, display, or delivery of goods or merchandise belonging to the resident;
- b) the maintenance of a stock of goods or merchandise belonging to the resident for the purpose of storage, display, or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the resident for the purpose of processing by another person;
- d) the maintenance of a fixed place of business for the purpose of purchasing goods or merchandise, or for collecting information, for the resident;
- e) the maintenance of a fixed place of business 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 resident.

4. A person acting in a Contracting State on behalf of a resident of the other Contracting State—other than an agent of an independent status to

whom paragraph 5 applies—shall be deemed to be a permanent establishment in the first-mentioned State if such person has, and habitually exercises in that State, an authority to conclude contracts in the name of that resident, unless the exercise of such authority is limited to the purchase of goods or merchandise for that resident.

5. Notwithstanding paragraph 4 a resident of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because such resident carries on business in that other State through a broker, general commission agent, or any other agent of an independent status, where such person is acting in the ordinary course of his business.

6. The fact that a resident of one of the Contracting States is a related person with respect to a resident of the other Contracting State or with respect to a person who engages in industrial or commercial activity in that other Contracting State (whether through a permanent establishment or otherwise) shall not be taken into account in determining whether that resident of the first Contracting State has a permanent establishment in the other Contracting State.

Article 10

SHIPPING AND AIR TRANSPORT

Notwithstanding Article 8, income which a resident of one of the Contracting States derives from the operation in international traffic of ships or aircraft registered in that Contracting State shall be taxable only in that Contracting State.

Article 11

RELATED PERSONS

1. Where a resident of a Contracting State deriving industrial and commercial profits in one of the Contracting States and any other person are related and where such related persons make arrangements or impose conditions between themselves which are different from those which would be made between independent persons, then any income which would, but for those arrangements or conditions, have accrued to the resident of one of the Contracting States but, by reason of those arrangements or conditions, has not so accrued, may be included in the income of the resident of one of the Contracting States for purposes of the present Convention and taxed accordingly.

2. a) A person other than a corporation is related to a corporation if such person participates directly or indirectly in the management, control, or capital of the corporation.

b) A corporation is related to another corporation if it either participates directly or indirectly in the management, control, or capital of the other, or if any person or persons participate directly or indirectly in the management, control, or capital of both corporations.

Article 12

DIVIDENDS

1. Dividends derived from sources within a Contracting State by a resident of the other Contracting State may be taxed in that other State.

2. Dividends derived from sources within a Contracting State by a resident of the other Contracting State may also be taxed by the former Contracting State but the tax imposed on such dividends shall not exceed—

- a) 15 percent of the amount actually distributed; or
- b) when the recipient is a corporation, 5 percent of the amount actually distributed if—
 - i) during the part of the paying corporation's taxable year which precedes the date of payment of the dividend and during the whole of its prior taxable year (if any), at least 10 percent of the outstanding shares of the voting stock of the paying corporation was owned by the recipient corporation, and
 - ii) not more than 25 percent of the gross income of the paying corporation for such prior taxable year (if any) consisted of interest and dividends (other than interest derived in the conduct of a banking, insurance, or financing business and dividends or interest received from subsidiary corporations, 50 percent or more of the outstanding shares of the voting stock of which was owned by the paying corporation at the time such dividends or interest were received.

3. Paragraph 2 of this Article shall not apply if the recipient of the dividends being a resident of one of the Contracting States has a permanent establishment in the other Contracting State and the shares with respect to

which the dividends are paid are effectively connected with the permanent establishment. In such a case, the provisions of Article 8 shall apply.

4. For the purpose of paragraph 2 of this Article the combined Finnish tax on dividends derived from sources within the Republic of Finland by a resident of the United States and the Finnish capital tax on the capital stock of a Finnish corporation owned by a resident of the United States shall not exceed—

- a) 15 percent of the amount distributed; or
- b) when the recipient is a corporation, 5 percent of the amount distributed if the requirements of subdivisions i) and ii) of paragraph 2, b are satisfied.

Article 13

INTEREST

1. Interest derived from sources within one Contracting State by a resident of the other Contracting State shall be taxable only in that other Contracting State.

2. Paragraph 1 of this Article shall not apply if the recipient of the interest, being a resident of one of the Contracting States, has a permanent establishment in the other Contracting State and the indebtedness giving rise to the interest is effectively connected with such permanent establishment. In such a case, the provisions of Article 8 shall apply.

3. Where, owing to a special relationship between the payor and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the claim with respect to which it is paid, exceeds the amount which should have been agreed upon by the payor 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 remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

4. The term “interest” as used in this Article means income from Government 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 has its source.

Article 14

ROYALTIES

1. Royalties from sources within a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State.

2. The term "royalties" as used in this Article means—

a) any amounts paid as consideration for the use of, or the right to use the property described in paragraph 3 of this Article or for knowledge, experience or skill (know how); and

b) gains derived from the sale or other disposition of the property described in paragraph 3 of this Article, to the extent payment of the amounts realized on such sale or disposition is contingent, in whole or in part, on the productivity, use, or disposition of such property.

3. The property referred to in paragraph 2 of this Article includes copyrights, artistic and scientific works, patents, designs, models, plans, secret processes or formulae, trademarks, and other like property or rights, and industrial, commercial, and scientific equipment.

4. The provisions of paragraph 1 shall not apply if the recipient of the royalties, being a resident of a Contracting State has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the provisions of Article 8 shall apply.

5. Where, owing to a special relationship between the payor 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 payor 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 remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Article 15

INCOME FROM REAL PROPERTY

1. Income from real property, including royalties in respect of the operation of mines, quarries, or other natural resources and gains derived

from the sale, exchange, or other disposition for consideration, of such property or of the right giving rise to such royalties, may be taxed by the Contracting State in which such real property, mines, quarries, or other natural resources are situated. For purposes of this Article and as provided in paragraph 4 of Article 6 (Source of Income) interest from mortgages or bonds secured by real property or by such royalty interest shall not be regarded as income from real property.

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

Article 16

CAPITAL GAINS

1. A resident of one of the Contracting States shall be taxable only in that State on gains from the sale or exchange of capital assets.

2. Paragraph 1 of this Article shall not apply if—

- a) the gain is received by a resident of one of the Contracting States and arises out of the sale or exchange of property described in Article 15 (Income From Real Property) located within the other Contracting State,
- b) the recipient of the gain, being a resident of one of the Contracting States, has a permanent establishment in the other Contracting State and the property giving rise to the gain is effectively connected with such permanent establishment, or
- c) the recipient of the gain, being an individual resident of one of the Contracting States—
 - i) maintains a fixed base in the other Contracting State and the property giving rise to such gain is effectively connected with such fixed base, or
 - ii) is present in the other Contracting State for a period or periods exceeding in the aggregate 183 days during the taxable year.

3. In the case of gains described in paragraph 2, *b*, the provisions of Article 8 (Business Profits) shall apply.

Article 17

CAPITAL TAXES

1. Capital represented by property referred to in Article 15 (Real Property) may be taxed in the Contracting State in which such property is situated.

2. Subject to the provisions of paragraph 3 below, capital represented by assets, other than property referred to in paragraph 1, which are effectively connected with a permanent establishment of a resident of one of the Contracting States may be taxed in the State in which the permanent establishment is situated.

3. Ships and aircraft of a resident of one of the Contracting States, if registered in that Contracting State, and assets, other than property referred to in paragraph 1, pertaining to the operation of such ships or aircraft shall be exempt from tax by the other State.

4. *a)* All other elements of capital of a resident of Finland not dealt with in this Article shall be exempt from tax by the United States.

b) All other elements of capital of a resident of the United States not dealt with in this Article shall be exempt from tax by the Republic of Finland.

Article 18

INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of independent activities shall be taxable only in that State unless such activities were performed in the other Contracting State. Income in respect of independent activities performed within such other State may be taxed by such other State.

2. Notwithstanding the provisions of paragraph 1, income derived by a resident of a Contracting State in respect of independent activities performed in the other Contracting State shall be exempt from tax by that other Contracting State if 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.

Article 19

DEPENDENT PERSONAL SERVICES

1. Salaries, wages, and other similar remuneration paid to a resident of a Contracting State for labor or personal services shall be taxable only

in that State unless such labor or personal services are performed in the other Contracting State. Remuneration received for labor or personal services performed within such other State may be taxed by such 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 not be taxable in such other 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,
- 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. Remuneration received by an individual for personal services performed aboard ships or aircraft registered in one of the Contracting States and operated by a resident of that Contracting State shall be exempt from tax by the other Contracting State, if such individual is a member of the regular complement of the ship or aircraft.

Article 20

TEACHERS

1. An individual who is a resident of one of the Contracting States at the beginning of his visit to the other Contracting State and who, at the invitation of the Government of the other Contracting State or of a university or other accredited educational institution situated in the other Contracting State, visits the latter Contracting State for the primary purpose of teaching or engaging in research, or both, at a university or other accredited educational institution shall be exempt from tax by the latter Contracting State on his income from personal services for teaching or research at such educational institution, or at other such institutions, for a period not exceeding 2 years from the date of his arrival in the latter Contracting State.

2. This Article 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 21

STUDENTS AND TRAINEES

1. *a)* An individual who is a resident of one of the Contracting States at the beginning of his visit to the other Contracting State and who is temporarily present in the other Contracting State for the primary purpose of—

- i) studying at a university or other accredited educational institution in that other Contracting State, or
- ii) securing training required to qualify him to practice a profession or professional speciality, or
- iii) studying or doing research as a recipient of a grant, allowance, or award from a governmental, religious, charitable, scientific, literary, or educational organization,

shall be exempt from tax by that other Contracting State with respect to amounts described in subparagraph *b*.

b) The amounts referred to in subparagraph *a* include—

- i) gifts from abroad for the purpose of his maintenance, education, study, research, or training;
- ii) the grant, allowance, or award; and
- iii) income from personal services performed in the other Contracting State in an amount not in excess of 2,000 United States dollars or its equivalent in Finnish markkas for any taxable year.

c) The benefits under this paragraph shall only extend for such period of time as may be reasonably or customarily required to effectuate the purpose of the visit, but in no event shall any individual have the benefits of this Article and Article 20 (Teachers) for more than a total of 5 taxable years.

2. An individual who is a resident of one of the Contracting States at the beginning of his visit to the other Contracting State and who is temporarily present in the other Contracting State as an employee of, or under contract with, a resident of the former State, for the primary purpose of—

- a)* acquiring technical, professional, or business experience from a person other than that resident of the former State or a corporation

50 percent or more of the voting stock of which is owned by that resident of the former State, or

b) studying at a university or other accredited educational institution in that other Contracting State,

shall be exempt from tax by that other Contracting State for a period of 12 consecutive months with respect to his income from personal services in an amount not in excess of 5,000 United States dollars or its equivalent in Finnish markkas.

3. An individual who is a resident of one of the Contracting States at the beginning of his visit to the other Contracting State and who is present in the other Contracting State for a period not exceeding 1 year, as a participant in a program sponsored by the Government of the other Contracting State, for the primary purpose of training, research, or study, shall be exempt from tax by that other Contracting State with respect to his income from personal services performed in that other Contracting State and received in respect of such training, research, or study, in an amount not in excess of 10,000 United States dollars or its equivalent in Finnish markkas.

Article 22

GOVERNMENTAL FUNCTIONS

1. Remuneration, including pensions, paid by or from public funds of the United States, or a political subdivision or local authority thereof to a United States citizen for services rendered to the United States or to any of its political subdivisions in the discharge of governmental functions shall be exempt from tax by the Republic of Finland.

2. Remuneration, including pensions, paid by or from public funds of the Republic of Finland, a subdivision, a local authority, or a public community thereof to an individual who is a citizen of the Republic of Finland for services rendered to the Republic of Finland or to a subdivision, a local authority, or a public community thereof in the discharge of governmental functions shall be exempt from tax by the United States.

Article 23

RULES APPLICABLE TO PERSONAL INCOME ARTICLES

1. Articles 18 through 22 shall apply to reimbursed travel expenses, but such expenses shall not be taken into account in computing the maximum amount of exemptions specified in Article 21.

2. If an individual qualifies for benefits under more than one of the provisions of Articles 18 through 22, he may apply the provisions of whichever Article is most favorable to him. However, the benefits of the Article claimed shall be reduced by any benefits previously allowed under any other of the provisions of Articles 18 through 22.

3. An individual who is a resident of one of the Contracting States and who is temporarily present in the other Contracting State and who qualifies for exemption from tax in such other Contracting State under Article 20 (Teachers) or Article 21 (Students and Trainees) shall be allowed by the former Contracting State as deductions from income subject to tax therein all travel expenses (including travel fares, meals and lodging, and expenses incident to travel) while traveling between the two Contracting States and all ordinary and necessary living expenses (including meals and lodging) while temporarily present in such other Contracting State. The expenses deductible under this paragraph shall be deemed to amount to at least 30 percent of the income exempt under Article 20 or 21.

Article 24

PRIVATE PENSIONS AND ANNUITIES

1. Except as provided in Article 22, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that Contracting State.

2. Alimony and annuities paid to a resident of a Contracting State shall be taxable only in that Contracting State.

3. The term "annuities", as used in this Article, means a stated sum paid periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration (other than services rendered).

4. The term “pensions and other similar remuneration”, as used in this Article, means periodic payments made after retirement in consideration for services rendered, or by way of compensation for injuries received, in connection with past employment.

Article 25

SOCIAL SECURITY PAYMENTS

Social security payments and other public pensions (whether representing employee or employer contributions or accretions thereto) paid by one of the Contracting States or, in the case of Finland by a public community, to an individual who is a resident of the other Contracting State shall be taxable only in the former Contracting State. However, this Article shall not apply to payments described in Article 22 (Governmental Functions).

Article 26

DIPLOMATIC AND CONSULAR OFFICERS

Nothing in the present Convention shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements.

Article 27

INVESTMENT OR HOLDING COMPANIES

A corporation of one of the Contracting States deriving dividends, interest, or royalties from sources within the other Contracting State shall not be entitled to the benefits of Article 12, Article 13, or Article 14 if—

- a) by reason of special measures granting tax benefits to investment or holding companies the tax imposed on such corporation by the former Contracting State with respect to such dividends, interest, or royalties is substantially less than the tax generally imposed by such Contracting State on corporate profits, and
- b) 25 percent or more of the capital of such corporation is held of record or is otherwise determined, after consultation between the

competent authorities of the Contracting States, to be owned directly or indirectly, by one or more persons who are not individual residents of the former Contracting State (or, in the case of a Finnish corporation, who are citizens of the United States).

Article 28

MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State 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 Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.

2. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the application of the Convention. In particular, the competent authorities of the Contracting States may consult together to endeavor to agree—

- a) to the same attribution of industrial or commercial profits to a resident of one of the Contracting States and its permanent establishment situated in the other Contracting State;
- b) to the same allocation of income between a resident of one of the Contracting States and any related person, referred to in Article 11;
- or
- c) to the same determination of the source of particular items of income.

3. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable for the purpose of reaching agreement, the competent authorities may meet together for an oral exchange of opinions.

4. In the event that the competent authorities reach such an agreement, taxes shall be imposed on such income, and refund or credit of taxes shall be allowed, by the Contracting States in accordance with such agreement.

Article 29

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting State shall exchange such information as is pertinent to carrying out the provisions of this

Convention or preventing fraud or fiscal evasion in relation to the taxes which are the subject of this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those (including a court or administrative body) concerned with assessment, collection, enforcement, or prosecution in respect of the taxes which are the subject of the Convention.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States the obligation—

- a) to carry out administrative measures at variance with the laws or the administrative practice of that or the other Contracting State;
- b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- c) to 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.

3. The exchange of information shall be either on a routine basis or on request with reference to particular cases. The competent authorities of the Contracting States shall agree on the list of information which shall be furnished on a routine basis.

4. The competent authorities of the Contracting States shall notify each other of any amendments of the tax laws referred to in Article 1 (1) by transmitting the texts of any amendments or new statutes at least once a year.

5. The competent authorities of the Contracting States shall exchange the texts of all published material interpreting the present Convention under their respective laws, whether in the form of regulations, rulings, or judicial decisions.

Article 30

ASSISTANCE IN COLLECTION

1. Each of the Contracting States shall endeavor to collect such taxes imposed by the other Contracting State as will ensure that any exemption or reduced rate of tax granted under the present Convention by the other State shall not be enjoyed by persons not entitled to such benefits.

The Contracting State making such collections shall be responsible to the other Contracting State for the sums thus collected. The competent authority of each of the Contracting States shall consult with the competent authority of the other Contracting State for the purpose of cooperating with and advising that other Contracting State in respect of any action taken by it within the former Contracting State to collect its tax.

2. In no case shall the provisions of this article be construed so as to impose upon either of the Contracting States the obligation to carry out administrative measures at variance with the regulations and practices of the Contracting State endeavoring to collect the tax or which would be contrary to that State's sovereignty, security, or public policy.

Article 31

ENTRY INTO FORCE

1. This Convention shall be ratified and instruments of ratification shall be exchanged at Helsinki as soon as possible. It shall enter into force 2 months after the exchange of instruments of ratification. Its provisions shall for the first time have effect—

a) in the case of Finland—

to taxes which are levied for taxable year beginning on or after January 1, following the year in which the instruments of ratification are exchanged.

b) in the case of the United States—

i) as respects the rate of withholding tax, to amounts received on or after the date on which this Convention enters into force;

ii) as respects other income taxes, to taxable years beginning on or after January 1, following the year in which the instruments of ratification are exchanged.

2. Upon the coming into effect of this Convention, the Convention of December 18, 1952,¹ relating to income taxes, shall terminate. The provisions of the Convention of December 18, 1952, will cease to have effect from the date on which the corresponding provisions of this Convention shall for the first time have effect according to subparagraph 1 above-mentioned.

¹ United Nations, *Treaty Series*, vol. 177, p. 163.

Article 32

TERMINATION

1. This Convention shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Convention, through diplomatic channels, by giving notice of termination at least 6 months before the end of any calendar year after the year 1973. In such event, the Convention shall cease to have effect—

a) in the case of Finland—

to taxes which are levied for taxable years beginning on or after January 1 of the year following the year in which notice is given.

b) in the case of the United States—

i) as respects withholding taxes, on January 1 of the year following the year in which notice is given; and

ii) as respects other income taxes, for any taxable year beginning on or after January 1 of the year following the year in which notice is given.

2. Notwithstanding the provision of paragraph 1 of this Article, and upon prior notice to be given through diplomatic channels, the provisions of Article 25 (Social Security Payments) may be terminated by either Contracting State at any time after this Convention shall enter into force.

DONE at Washington, in duplicate, in the Finnish and English languages, the two texts having equal authenticity, this sixth day of March 1970.

For the President
of the Republic of Finland:
OLAVI MUNKKI

For the President
of the United States of America:
WILLIAM P. ROGERS
