

No. 13003

**FINLAND
and
NORWAY**

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 Oslo on 12 January 1972

Authentic texts: Finnish and Norwegian.

Registered by Finland on 31 January 1974.

**FINLANDE
et
NORVÈGE**

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 Oslo le 12 janvier 1972

Textes authentiques : finnois et norvégien.

Enregistrée par la Finlande le 31 janvier 1974.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE REPUBLIC OF FINLAND AND
THE KINGDOM OF NORWAY FOR THE AVOIDANCE OF
DOUBLE TAXATION AND THE PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES ON INCOME AND
FORTUNE

The President of the Republic of Finland and His Majesty the King of Norway,

Desiring to replace the Agreement for the avoidance of double taxation with respect to taxes on income and property, signed at Helsinki on 29 March 1954, by a new Agreement,

Have for that purpose appointed as their plenipotentiaries:

The President of the Republic of Finland: Ambassador Pentti Suomela;

His Majesty the King of Norway: Andreas Cappelen, Minister for Foreign Affairs,

Who, having exchanged their full powers, found in good and due form,

Have agreed as follows:

Chapter I. SCOPE OF THE AGREEMENT

Article 1. PERSONAL SCOPE

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

Article 2. TAXES COVERED

1. Subject to the provisions of article 25, paragraph 4, this Agreement shall apply to taxes on income and on fortune imposed on behalf of each Contracting State, or of one of its juridical persons under public law or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on fortune all taxes imposed on total income, on total fortune or on elements of income or of fortune, including taxes on gains from the alienation of movable or immovable property and taxes on capital appreciation.

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

(a) In the case of Finland:

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

¹ Came into force on 15 December 1973, i.e. the thirtieth day following the date (15 November 1973) of the exchange of notes confirming that the Contracting States had completed the required constitutional procedures, in accordance with article 29 (1).

- (ii) The communal tax (*kunnallisvero*);
 - (iii) The church tax (*kirkollisvero*);
 - (iv) The seamen's tax (*merimiesvero*);
(hereinafter referred to as "Finnish tax");
- (b) In the case of Norway:
- (i) The State and communal taxes on income and fortune (*inntekts- og formuesskatt til stat og kommuner*);
 - (ii) The State tax on fees paid to artists residing abroad (*statsavgift av honorarer som tilfaller kunstnere bosatt i utlandet*);
 - (iii) The State tax for aid to developing countries (*statsskatt til utviklingshjelp*);
 - (iv) The real property tax (*eiendomsskatt og*);
 - (v) The seamen's tax (*sjømannsskatt*);
(hereinafter referred to as "Norwegian tax").
4. This Agreement shall also apply to any identical or substantially similar taxes which are imposed, after this Agreement has been signed, in addition to, or in place of, the existing taxes.
5. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws.

Chapter II. DEFINITIONS

Article 3. GENERAL DEFINITIONS

1. In this Agreement, unless the context otherwise requires:
- (a) The terms "one Contracting State" and "the other Contracting State" mean Finland or Norway, as the context requires;
 - (b) 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 Finnish legislation concerning Finland's continental shelf, the rights of Finland with respect to the seabed and subsoil and their natural resources may be exercised;
 - (c) The term "Norway" means the Kingdom of Norway, including any area adjacent to the territorial sea of Norway which under Norwegian legislation and in accordance with international law has been or may hereafter be designated as an area within which the rights of Norway with respect to the seabed and subsoil and their natural resources may be exercised; the term does not embrace Spitsbergen (including Bjørnøya), Jan Mayen and the Norwegian dependencies outside Europe;
 - (d) The term "national" means any physical person who is a national of a Contracting State and any juridical person, partnership or association deriving its legal status from law in force in a Contracting State;

(e) The term "person" includes a physical person, a company and any other association;

(f) The term "company" means any juridical person or any entity which is treated as a juridical person for tax purposes;

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

(h) The term "international traffic" includes any voyage of a ship or aircraft operated by a resident of a Contracting State other than a voyage confined solely to ports in the other Contracting State;

(i) The term "competent authority" means, in the case of Finland, the Ministry of Finance or its authorized representative and, in the case of Norway, the Ministry of Finance and Customs or its authorized representative.

2. For purposes of the application of the provisions of this Agreement by a Contracting State, any term not otherwise defined shall 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 a Contracting State" means, subject to the provisions of paragraphs 2 and 3, any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. The term does not include any physical person who is liable to tax in the said Contracting State only if he derives income from sources therein. The terms "resident of Finland" and "resident of Norway" shall be construed accordingly.

2. Where by reason of the provisions of paragraph 1 a physical person is a resident of both Contracting States, the following rules shall apply:

- (a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closest (centre of vital interests);
- (b) If the Contracting State in which he has his centre of vital interests cannot be determined, or if he does not have a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
- (c) If he has an habitual abode in both Contracting 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 Contracting States or of neither of them, the competent authorities of both States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1, a person other than a physical person is a resident of both States, such person shall be deemed

to be a resident of the Contracting State in which its place of effective 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 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 for 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 Contracting State on behalf of an enterprise of the other State—other than an independent agent to whom the provisions of paragraph 5 apply—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 Contracting State 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 Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether

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

Chapter III. TAXATION OF INCOME

Article 6. INCOME FROM IMMOVABLE PROPERTY

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

2. (a) The term “immovable property” shall, subject to the provisions of subparagraphs (b) and (c) below, be defined in accordance with the law of the Contracting State in which the property in question is situated.

(b) The term “immovable property” shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of private law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources.

(c) Ships and aircraft shall not be regarded as immovable property.

3. Save as otherwise provided by article 10 and article 7, paragraph 8, income from shares in companies or other similar participations entailing possession of immovable property or a portion thereof belonging to the company shall be taxed in the Contracting State where the immovable property in question is situated.

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

5. In the determination of income from immovable property which a resident of a Contracting State has in the other Contracting State, there shall be allowed deductions for expenses (including interest on debt-claims) which are incurred for the purposes of such property under the same conditions as are valid for residents of that other State.

6. The provisions of paragraphs 1, 4 and 5 shall also apply to income from immovable property of an enterprise and to income from immovable property used for the performance of professional services. The provisions of paragraph 3 shall apply as appropriate.

Article 7. BUSINESS PROFITS

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

2. Where an enterprise of one Contracting State carries on business in the other Contracting State through a permanent establishment situated therein,

there shall in each State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses of the enterprise (other than expenses which would not be deductible if the permanent establishment were a separate enterprise) which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

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

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

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

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

8. The term "profits" in this article also includes income derived from participation in a business partnership (trading company, limited partnership (*kommandittselskap*) and Norwegian sleeping partnership (*stille selskap*).

Article 8. SHIPPING AND AIR TRANSPORT

1. Notwithstanding the provisions of article 7, paragraphs 1-6, profits from the operation of ships or aircraft in international traffic may be taxed only in the Contracting State in which the place of effective management of the enterprise is situated.

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

3. Profits derived from the operation of ships or aircraft in international traffic by an enterprise of a Contracting State through participation in a pool, a joint business or an international operating agency shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

Article 9. ASSOCIATED ENTERPRISE

1. Where:

- (a) An enterprise of one Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- (b) The same persons participate directly or indirectly in the management control or capital of an enterprise of one Contracting State and an enterprise of the other Contracting State,

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

2. If, a question of the kind dealt with in this article should arise in one Contracting State, the competent authority of the other Contracting State shall be so informed in order that the necessary adjustment may be made with regard to the determination of income and fortune for the enterprise which is a resident of that State. The competent authorities may, if necessary, work out a reasonable arrangement for the determination of income and fortune.

Article 10. DIVIDENDS

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

2. However, such dividends may be taxed in the Contracting State of which the company, (excluding partnerships and other similar associations), paying the dividends is a resident, and according to the law of that State, but the tax so charged, subject to the provisions of paragraph 3, shall not exceed:

- (a) 5 per cent of the gross amount of the dividends if the recipient is a company (excluding partnerships and other similar associations) which holds directly or indirectly at least 25 per cent of the capital of the company paying the dividends;
- (b) In all other cases, 15 per cent of the gross amount of the dividends.

3. In the taxation by Norway of dividends paid by a Norwegian company to a Finnish company (with the exception of partnerships and other similar associations), a tax rate may be applied but must not exceed 15 per cent. This provision shall apply so long as Norwegian companies are entitled to claim tax deductions from their profits for dividends paid out.

4. The competent authorities of the Contracting States shall agree on the procedure for applying the limitations on taxation referred to in paragraphs 2 and 3.

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

5. 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.

6. The provisions of paragraphs 1, 2 and 3 shall not apply if the recipient of the dividends, being a resident of one Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of article 7 shall apply.

7. Dividends paid by a company which is a resident of one Contracting State to a company which is a resident of the other Contracting State shall be exempt from taxation in the latter State to the extent that they would have been exempt under the taxation law of that State if both companies had been residents there.

8. Where a company which is a resident of one Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company 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 Contracting State and paid to a resident of the other Contracting State shall only be taxable in that other State.

2. 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 arises.

3. The provisions of paragraph 1 shall not apply if the recipient of the interest, being a resident of one Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the provisions of article 7 shall apply.

4. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon 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 remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 12. ROYALTIES

1. Royalties arising in one 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 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 cinematographic films and films or tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, 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 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 royalties shall be taxed in that other State in accordance with the law of that State.

4. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon 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 remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 13. CAPITAL GAINS

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

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of one Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of one Contracting State in the other Contracting State, for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State.

3. Notwithstanding the provisions of paragraph 2, capital gains derived from the alienation of ships and aircraft operated in international traffic and at movable property pertaining to the operation of such ships and aircraft shall be taxable only in the Contracting State where the place of effective management of the enterprise is situated.

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

5. The provisions of paragraph 4 shall not affect the right of a Contracting State to levy according to its own law a tax on capital gains derived from the alienation of any property referred to in paragraph 4 by a physical person who has been a resident of the said State at any time during the five years immediately preceding the alienation of the property.

Article 14. INDEPENDENT PERSONAL SERVICES

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

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

Article 15. DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of articles 16, 19, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of one Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned, and
- (b) no part of the stay in the other State in the course of the calendar year concerned is a link in a continuous stay of more than 183 days in the aggregate, and
- (c) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- (d) 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 in respect of an employment exercised aboard:

- (a) a Finnish or Norwegian ship shall be taxable only in the Contracting State in which the ship is registered; in the application of this provision, a foreign ship which is chartered on a so-called bareboat basis by an enterprise whose place of effective management is situated in Finland or Norway shall be treated as a Finnish or Norwegian ship as the case may be;

- (b) aircraft in international traffic and aircraft operated by the Scandinavian Airlines System (SAS) consortium shall be taxable only in the Contracting State of which the recipient of the remuneration is a resident;
- (c) Fish-, seal- or whale-catching vessels shall be taxable only in the Contracting State of which the recipient of the remuneration is a resident; the same shall apply when the remuneration for the employment is paid in the form of a specified share or portion of the proceeds from the fish-, seal- or whale-catching activity.

4. Salaries, wages and other similar remuneration derived by a resident of a frontier commune of one Contracting State in respect of personal services rendered in a frontier commune of the other Contracting State shall be taxable only in the first-mentioned State, provided that the person in question is habitually present in the place where he has his permanent residence.

The following Norwegian communes are situated on the frontier with Finland:

—Storfjord, Kåfjord, Nordreisa, Kautokeino, Karasjok, Tana, Nesseby and Sør-Varanger.

The following Finnish communes are situated on the frontier with Norway:

—Enare, Enontekiö and Utsjoki.

Article 16. DIRECTORS' FEES

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

2. The provisions of paragraph 1 do not apply to the taxation of payments for personal services for the company other than the activity referred to in paragraph 1.

Article 17. ARTISTS AND ATHLETES

1. Notwithstanding the provisions of articles 14 and 15, income derived by public 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 Contracting State in which these activities are exercised.

2. Notwithstanding any other provisions of this Agreement, income which an enterprise of one Contracting State derives from services rendered in the other Contracting State by a person referred to in paragraph 1 may be taxed in the Contracting State in which the activity is exercised, irrespective of whether such person is a resident of a Contracting State.

Article 18. PENSIONS, ANNUITIES, SUPPORT PAYMENTS, NATIONAL PENSIONS AND OTHER PAYMENTS UNDER SOCIAL LEGISLATION

1. Subject to the provisions of article 19, paragraph 1, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of

past employment as well as annuities and maintenance payments received by such a person shall be taxable only in that Contracting State.

Where a resident of Finland pays support for a child resident in Norway and he is not permitted under Finnish law to make a deduction from his income for such support payments, the said payments shall not be taxable in Norway.

National pensions and similar payments received by a resident of one Contracting State under the provisions of the social legislation of the other Contracting State may be taxed in that other State.

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

Article 19. GOVERNMENTAL FUNCTIONS

1. Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to any physical person in respect of services rendered to that State or subdivision or local authority thereof may be taxed in that State.

2. The provisions of articles 15, 16 and 18 shall apply to remuneration or pensions in respect of services rendered in connexion with any trade or business carried on by one of the Contracting States or a political subdivision or a local authority thereof.

Article 20. STUDENTS AND APPRENTICES

A physical person who is present in a Contracting State solely

- (a) As a student at a university, college or school in that Contracting State;
- (b) As an apprentice in business, agriculture, forestry or technology in that Contracting State, or
- (c) As the recipient of a grant, allowance or award from a religious, charitable, scientific or educational institution for the primary purpose of study or research at a university, research institution or similar organization in that Contracting State,

and who immediately before his stay was a resident of the other Contracting State, shall not be taxed in the first-mentioned State in respect of

- (1) Payments which he receives from sources outside the first-mentioned State for his maintenance, education or training;
- (2) Grants, allowances or awards within the meaning of subparagraph (c) above;
- (3) Other grants for study purposes.

Similarly, compensation for services rendered in the first-mentioned State by such a person during a period or periods not exceeding in the aggregate 183 days in the calendar year concerned shall not be taxed in that State, provided that such employment is directly related to his studies, training or research or is exercised exclusively for the purposes of his maintenance.

Article 21. PROFESSORS AND TEACHERS

1. A professor or teacher who visits a Contracting State for the purpose of teaching or conducting research at a university, college, school or other educational institution or research institution in that Contracting State shall, if his visit does not exceed two years and he is, or was immediately before the visit, a resident of the other Contracting State, be exempt from tax in the first-mentioned Contracting State in respect of any remuneration for such teaching or research in respect of which he is subject to tax in the other Contracting State.

2. This article shall not apply to income from research which is conducted primarily for private gain and not in the public interest.

Article 22. INCOME NOT EXPRESSLY MENTIONED

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

Chapter IV. TAXATION OF FORTUNE

Article 23. FORTUNE

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

2. A resident of one Contracting State who owns immovable property situated in the other Contracting State shall be entitled in the assessment of the property's taxable value, to full deduction for debts incurred in connexion with the property and secured by the property.

3. 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 Contracting State in which the permanent establishment or fixed base is situated.

4. Fortune represented by ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

5. All other elements of fortune of a resident of a Contracting State shall be taxable only in that State.

Chapter V. METHODS FOR ELIMINATION OF DOUBLE TAXATION

Article 24. EXEMPTION METHOD

1. Where a resident of Finland derives income or owns fortune which, in accordance with the provisions of this Agreement, may be taxed in Norway, Finland shall, subject to the provisions of paragraph 3, allow a deduction, in

calculating tax on income or fortune in Finland, for that part of the tax on income or fortune which can be proportionately attributed to the income derived from Norway or the fortune situated there.

2. Where a resident of Norway derives income or owns fortune which, in accordance with the provisions of this Agreement, may be taxed in Finland, Norway shall, subject to the provisions of paragraph 3, exempt such income or fortune from tax but may, in calculating tax on the remaining income or fortune of that person, apply the rate of tax which would have been applicable if the exempted income or fortune had not been so exempted.

3. Where a resident of one Contracting State derives income which, in accordance with the provisions of article 10, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that person an amount equal to the tax paid in that other Contracting State, provided that the income in question is taxable in the first-mentioned State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to the income derived from that other Contracting State.

Chapter VI. SPECIAL PROVISIONS

Article 25. NON-DISCRIMINATION

1. The nationals of one Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

2. The taxation on

- (a) a permanent establishment which an enterprise of one Contracting State has in the other Contracting State or
- (b) a fixed base which a resident of one Contracting State has in the other Contracting State for the performance of professional services

shall not be less favourably levied in that other State than the taxation levied on enterprises or residents of that other State carrying on the same activities or professional services.

These provisions shall not be construed as obliging one 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.

The provisions of this paragraph shall, moreover, not be construed as preventing one Contracting State from taxing, in accordance with the law of that State, profits derived by a fixed establishment belonging to a joint-stock company which is a resident of the other Contracting State. The rate of tax shall, however, correspond to that which is applied to the undistributed profits of joint-stock companies which are residents of the first-mentioned State.

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

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

Article 26. 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 Agreement, 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 authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with this Agreement.

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

The competent authorities may also arrive at a reasonable agreement concerning any matter not regulated by this Agreement which arise in connexion with direct taxes on income and fortune by reason of divergences between the principles applied in the two States in the calculation of tax or for other reasons.

4. 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 in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a commission consisting of representatives of the competent authorities of the Contracting States.

Article 27. DIPLOMATIC AND CONSULAR OFFICIALS

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

2. Notwithstanding the provisions of article 4, a physical person belonging to the diplomatic or consular mission of one Contracting State who is stationed in the other Contracting State shall, for the purposes of this Agreement, be deemed to be a resident of the sending State, provided that:

(a) He is not a national of the receiving State and

(b) He is not, under the rules of international law, subject to tax in the receiving State in respect of income derived from sources outside that State, and

- (c) He is subject to tax in the sending State in respect of the whole at his income under the same provisions as apply to residents of that State.

Article 28. TERRITORIAL EXTENSION

1. This Agreement may be extended, either in its entirety or with any necessary modifications, to any part of Norwegian territory which is specifically excluded from the application of the Agreement and which imposes taxes substantially similar in character to those to which the 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 between the Contracting States in notes to be exchanged through the diplomatic channel or in any other manner in accordance with their normal practice.

2. Unless otherwise agreed by the Contracting States, the denunciation of the Agreement by one of them under article 30 shall also terminate, in the manner provided for in that article, the application of the Agreement to any part of the territory of Norway to which it has been extended under this article.

Chapter VII. FINAL PROVISIONS

Article 29. ENTRY INTO FORCE

1. This Agreement shall enter into force on the thirtieth day following the date of the exchange of notes confirming that the Contracting States have completed the constitutional procedures required for the entry into force of the Agreement.

2. The Agreement shall apply for the first time to taxes on income and fortune for the year of assessment (tax year), including accounting periods closed in that year, which follows the calendar year in which the Agreement enters into force.

3. The Agreement between the Republic of Finland and the Kingdom of Norway for the avoidance of double taxation with respect to taxes on income and property, signed at Helsinki on 29 March 1954, shall cease to have effect as from the time when this Agreement applies pursuant to paragraph 2.

4. The provisions concerning tax on income and fortune of the Treaty of Commerce of 11 November 1930¹ between Finland and Norway and at the Additional Agreement of 21 July 1937² shall not be applicable during the period of application of this Agreement to the extent that they conflict with the latter's provisions.

Article 30. TERMINATION

This Agreement shall remain in force until denounced by one of the Contracting States. Either Contracting State 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 the year 1976. In such event,

¹ League of Nations, *Treaty Series*, vol. CXXX, p. 17.

² *Ibid.*, vol. CXCI, p. 75.

the Agreement shall cease to have effect with respect to taxes on income and fortune which are payable in the calendar year (including accounting periods closed in that year) which follows the year in which notice of termination is given.

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

DONE at Oslo on 12 January 1972, in duplicate in the Finnish and Norwegian languages.

For the Republic of Finland:

PENTTI SUOMELA

For the Kingdom of Norway:

ANDREAS CAPPELEN

PROTOCOL

On signing the Agreement concluded this day between the Republic of Finland and the Kingdom of Norway 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 upon the following provisions, which form an integral part of the Agreement.

I. *Ad* articles 8, 13 and 23

1. Where a shipping or air transport enterprise engaged in international traffic is carried on by one or more partners who are residents of one Contracting State and by one or more partners who are residents of the other Contracting State, the said partners being jointly and severally liable, and the competent authorities of both States agree that the place of effective management of the enterprise cannot be regarded as situated in only one of the Contracting States, the profits referred to in article 8, paragraph 1, the capital gains referred to in article 13, paragraph 3, and the elements of fortune referred to in article 23, paragraph 4, may be taxed only in respect of that portion which each of the jointly and severally liable partners has in the Contracting State of which the partner concerned is a resident.

2. The provisions of article 8, paragraph 1, article 13, paragraph 3 and article 23, paragraph 4, shall apply to profits or capital gains accruing to, and fortune belonging to the Norwegian, Danish and Swedish air transport organization Scandinavian Airlines System (SAS), but only to the extent that such profits and capital gains accrue to, and that such fortune belongs to the Norwegian partner in the Scandinavian Airlines system (SAS) on the basis of the latter's share in that organization.

II. *Ad* article 10

Under Finnish tax law partnerships and other similar associations are taxed as taxable entities, cf. article 3, paragraph 1 (*f*). Under Norwegian tax law on the other hand, such companies are not taxed as such but the individual partners are taxed separately. For this reason, it has been agreed that an addendum to article 10, paragraph 2, shall provide that the tax on dividends at the source referred to in the said paragraph applies only to the return on shares in joint-stock companies and shares in co-operative societies. Partnerships and other similar associations which are residents of Finland shall be taxed in accordance with Finnish law even if the partners are residents of Norway, and the

taxation of such associations which are residents of Norway shall take the form of taxing the partners separately even if they are residents of Finland.

III. *Ad* article 15

Remuneration of the kind referred to in article 15, paragraph 2 may be taxed in the Contracting State in which the employment is exercised if the person deriving such remuneration is present in that State for a period or periods exceeding in the aggregate 183 days in the calendar year concerned as from the beginning of the period or periods in question.

IV. *Ad* article 25

The provisions of article 25 shall not be construed so as to oblige Norway to grant to Finnish nationals other than persons born in Norway of Norwegian parents the special tax relief granted to which Norwegian nationals and persons born in Norway of Norwegian parents are entitled under article 22 of the Norwegian tax law for rural areas and article 17 of the Norwegian tax law for urban areas when they take up residence in Norway after having had a permanent residence abroad.

IN WITNESS WHEREOF the plenipotentiaries of the Contracting States have signed this Protocol and have thereto affixed their seals.

DONE at Oslo on 12 January 1972, in duplicate in the Finnish and Norwegian languages.

For the Republic of Finland:

PENTTI SUOMELA

For the Kingdom of Norway:

ANDREAS CAPPELEN