

**No. 16540**

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**FINLAND  
and  
SWEDEN**

**Agreement for the avoidance of double taxation with respect to taxes on income and fortune (with protocol and additional agreement dated 9 November 1976). Signed at Helsinki on 27 June 1973**

*Authentic texts: Finnish and Swedish.*

**Territorial application**

*The Agreement and certified statement were registered by Finland on 21 April 1978.*

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**FINLANDE  
et  
SUÈDE**

**Convention tendant à éviter la double imposition en matière d'impôts sur le revenu et sur la fortune (avec protocole et avenant en date du 9 novembre 1976). Signée à Helsinki le 27 juin 1973**

*Textes authentiques : finnois et suédois.*

**Application territoriale**

*La Convention et la déclaration certifiée ont été enregistrées par la Finlande le 21 avril 1978.*

[TRANSLATION — TRADUCTION]

AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF THE REPUBLIC OF FINLAND AND THE GOVERNMENT OF THE KINGDOM OF SWEDEN FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND FORTUNE

The Government of the Republic of Finland and the Government of the Kingdom of Sweden,

Desiring to conclude a new agreement for the avoidance of double taxation with respect to taxes on income and fortune,

Have agreed as follows:

*Article 1. PERSONS COVERED BY THE AGREEMENT*

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

*Article 2. TAXES COVERED BY THE AGREEMENT*

1. This Agreement shall apply to taxes on income and fortune imposed on behalf of each Contracting State or of its communes or other juridical persons under public law, irrespective of the manner in which they are levied.

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

3. The existing taxes to which the Agreement shall apply are:

(a) In the case of Finland:

- (1) The tax on income and fortune (*tulo-ja omaisuusvero*);
  - (2) The communal tax (*kunnalisvero*);
  - (3) The church tax (*kirkollisvero*);
  - (4) The forestry dues (*metsänhoitomaksu*), and
  - (5) The seamen's tax (*merimiesvero*);
- (hereinafter referred to as "Finnish tax");

(b) In the case of Sweden:

- (1) The State income tax (*den statliga inkomstskatten*), including the seamen's tax (*sjömansskatten*) and the coupon tax (*kupongskatten*);
- (2) The licence tax (*bevillningsavgiften*) for certain public performances;
- (3) The tax on undistributed profits (*ersättningskatten*);
- (4) The tax on distributed profits (*utskifningskatten*);
- (5) The forestry dues (*skogsvårdsavgiften*);
- (6) The communal income tax (*den kommunala inkomstskatten*), and

<sup>1</sup> Came into force on 11 September 1977, i.e., 30 days after the date of the exchange of notes (effected at Helsinki on 12 August 1977) by which the Parties informed each other that it had been ratified, in accordance with article 28(1) of the Agreement, as amended, and article 6 of the Additional Agreement.

(7) The State tax on fortune (*den statliga förmögenhetsskatten*); (hereinafter referred to as “Swedish tax”).

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

5. The Agreement shall not apply, in the case of either Contracting State, to special taxes on lottery winnings and wagers or to inheritance or gift taxes.

### Article 3. GENERAL DEFINITIONS

1. In this Agreement, unless the context requires otherwise, the following expressions shall have the meanings given below:

(a) “Finland” means the Republic of Finland, including any area outside the territorial waters of Finland in which Finland, under Finnish legislation and in accordance with the general rules of international law, is entitled to exercise its rights with respect to the sea-bed and subsoil and their natural resources;

(b) “Sweden” means the Kingdom of Sweden, including any area outside the territorial waters of Sweden in which Sweden, under Swedish legislation and in accordance with the general rules of international law, is entitled to exercise its rights with respect to the natural resources of the sea-bed and of the subsoil thereof;

(c) “Person” includes an individual, a company and any other body of persons;

(d) “Company” means any body corporate and any other entity treated as such for tax purposes;

(e) “Enterprise of a Contracting State” and “Enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(f) “Competent authority” means:

(1) In the case of Finland: the Ministry of Finance or the Tax Administration;

(2) In the case of Sweden: the Minister of Finance or the authority responsible for dealing with matters relating to this Agreement;

(g) “National” means any individual who is a national of a Contracting State and any body corporate or other body of persons established in accordance with the laws in force in a Contracting State;

(h) “International traffic” includes any journey made by ships or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except for journeys made solely between points in the other Contracting State.

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

### Article 4. FISCAL DOMICILE

1. In this Agreement, the term “resident of a Contracting State” means 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 similar criterion.

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

- (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 such a home in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);
- (b) If the Contracting State in which he has his centre of vital interests cannot be determined, or if he has no permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting 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 Contracting 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 the Contracting States shall settle the question by mutual agreement.

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

4. The undivided estate of a deceased person shall be deemed to be resident in the Contracting State of which the deceased person is deemed under paragraphs 1 and 2 of this article to have been a resident at the time of death.

#### *Article 5. PERMANENT ESTABLISHMENT*

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

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

- (a) A place of management;
- (b) A branch;
- (c) An office;
- (d) A factory;
- (e) A workshop;
- (f) A mine, quarry or other place of extraction of natural resources;
- (g) A building site or construction or assembly project the duration of which exceeds 12 months.

3. The term “permanent establishment” shall not be deemed to include:

- (a) The use of facilities solely for 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 or refining 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 Contracting State—other than an independent agent to whom paragraph 5 applies—shall be deemed to be a permanent establishment in the first-mentioned State if he has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

5. An enterprise of one Contracting State shall not be deemed to have a permanent establishment in the other Contracting 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 the other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

#### *Article 6.* INCOME FROM IMMOVABLE PROPERTY

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

2. (a) The term “immovable property” shall—unless otherwise provided in subparagraph (b)—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, however, in all cases include property accessory to immovable property, livestock and equipment of agricultural and forestry enterprises, rights to which the provisions of private law respecting landed property apply, use of immovable property and rights to variable or fixed payments as consideration for the working of, or for the right to work, mineral deposits, mineral springs and other natural resources.

3. Income from rights giving entitlement to the use of immovable property owned by the company, when such rights are granted on the basis of shares or other similar participations in the company, may be taxed in the Contracting State in which the immovable property 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. The provisions of paragraph 1 and 4 shall also apply to income from the immovable property of an enterprise and to income from immovable property used for the performance of professional services.

#### *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, its profits may be taxed in the other State, but only to the extent that they are attributable to the permanent establishment.

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

3. In determining the profits of a permanent establishment, deductions shall be allowed for expenses, including executive and general administrative expenses, which are incurred for the purposes of the permanent establishment, whether in the State in which the permanent establishment is situated or elsewhere. However, no provision in this paragraph shall imply the right to make any deduction that could not have been made if the permanent establishment had been an independent enterprise.

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

5. No profits shall be attributed to a permanent establishment by reason of a 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 a special 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 such articles shall not be affected by the provisions of this article. The provisions of this article shall not prevent either Contracting State from including in the determination of income attributable to the permanent establishment income from stocks, shares, claims, property or other rights which have a real connection with the activity carried on from the permanent establishment.

#### *Article 8. INCOME FROM SHIPPING AND AIR TRANSPORT*

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

2. If the place of actual management of a shipping enterprise is on board a ship, it shall be deemed to be situated in the 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. The provisions of paragraph 1 shall apply to income earned by the Scandinavian Airlines System (SAS) consortium but only as far as concerns that part of the income corresponding to the share of the consortium held by AB Aerotransport (ABA).

*Article 9. ASSOCIATED ENTERPRISES*

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,

the following provisions shall be taken into account.

In so far as conditions are made or imposed between the two enterprises, in commercial or financial relations, which differ from those which would be made between independent enterprises, all profits which but for those conditions would have accrued to one of the enterprises by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly. Where a question dealt with in this article arises in one of the Contracting States, the competent authority of the other Contracting State shall be informed with a view to making the necessary adjustment in connection with the calculation of the profits of the enterprise which is a resident of that other State. When necessary, the competent authorities may conclude a special agreement concerning the apportionment of the profits.

*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 paying the dividends is a resident and according to the law of that State, but the tax charged shall not exceed:

- (a) 5 per cent of the gross amount of the dividends if the recipient is a company (other than a Finnish general partnership, limited partnership or shipping company or a Swedish commercial company) which directly or indirectly controls at least 25 per cent of all the voting stock of the company paying the dividends;
- (b) 10 per cent of the gross amount of the dividends in all other cases.

The competent authorities of the Contracting States shall determine by agreement the detailed rules for the application of this restriction.

The provisions of this paragraph shall not affect the taxation of the company in respect of the profits on which the dividends are paid.

3. The term "dividends" means income from stock, share certificates or — apart from debt-claims — other rights participating in profits and income from other corporate rights assimilated to income from stock by the taxation law of the State of which the company making the distribution is a resident.

4. Notwithstanding the provisions of paragraph 1, 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 last-mentioned State to the extent to which they would have been exempt under the law of that other State if both companies had been residents of that State.

5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of one Contracting State, has a permanent establishment in the other Contracting State, of which the company paying the dividends is a resident, provided that the holding by virtue of which the dividends are paid is directly

connected with the activity carried on from the permanent establishment. In such cases, the provisions of article 7 shall apply.

6. Where a company which is a resident of one Contracting State receives income from the other Contracting State, the said other State may not levy any tax on the dividends paid by the company to persons who are not residents of that other State, or subject the company to a tax on undistributed income, even if the dividends paid or the undistributed income consists wholly or partly of income arising in that other State.

#### *Article 11. INTEREST*

1. Interest 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 "interest" as used in this article means income from Government securities, other bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits. The term also includes income from debt-claims of any other kind as well as all other income assimilated to income from money lent by the taxation law of the Contracting 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 a permanent establishment in the other Contracting State, in which the interest arises, provided that the debt-claim from which the interest arises is directly connected with the activity carried on from the permanent establishment. In such cases, 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 a third person, the amount of interest paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon between the Parties in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In such cases, the excess part of the payments shall be 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 consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematographic films and films or tape for radio or television broadcasts), or any patent, trademark, 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 a permanent establishment in the other Contracting State, in which the royalties arise, provided that the right or property giving rise to the royalties is directly connected with the activities carried on from the permanent establishment. In such cases, 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 a third person, the amount of royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount



which would have been agreed upon between the Parties in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In such cases, the excess part of the payments shall be 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. Profits derived from the alienation of immovable property of the kind referred to in article 6, paragraph 2, shall be taxable in the Contracting State in which such property is situated.

2. Profits derived from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of one Contracting State has in the other Contracting State, or from the alienation of movable property pertaining to a fixed base which a resident of one Contracting State has in the other Contracting State for the practice of a profession, including also profits derived from the alienation of the permanent establishment itself (either alone or together with the whole enterprise) or of such a fixed base, may be taxed in that other State. However, profits derived from the alienation of movable property of the kind referred to in article 22, paragraph 3, shall be taxable only in the Contracting State in which such property is taxable under the said article.

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

4. The provisions of paragraph 3 shall not affect the right of a Contracting State to levy according to its own law a tax on capital gains derived by a person resident in the other Contracting State from the alienation of stock or shares in a company whose essential business property consists of immovable property, provided that the person in question has been a resident of the first-mentioned Contracting State at any time during the five years immediately preceding the alienation.

#### *Article 14. PROFESSIONS*

1. Income derived by a resident of one Contracting State from the practice of a profession or from other independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, only the portion of his income attributable to it shall be taxable in that other State.

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

#### *Article 15. EMPLOYMENT*

1. Subject to the provisions of articles 16, 18, 19 and 20, wages, salaries and similar remuneration derived by a resident of one Contracting State from 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, the remuneration derived by a resident of one Contracting State from employment 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) The remuneration is paid by or on behalf of an employer who is not a resident of that other State, and
- (c) The remuneration is not borne by a permanent establishment or fixed base which the employer has in that other State.

3. Notwithstanding the preceding provisions of this article,

- (a) Remuneration for services rendered on board a Finnish or Swedish vessel shall be taxable only in the Contracting State whose nationality the vessel possesses; in the application of this provision, a foreign vessel chartered on a so-called bareboat basis by an enterprise which has its actual place of management in Finland or Sweden shall be assimilated to a Finnish or Swedish vessel respectively;
- (b) Remuneration for services rendered on board aircraft in international traffic shall be taxable only in the Contracting State of which the recipient of the remuneration is a resident.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this article, income received by a resident of a commune of a Contracting State which directly adjoins the international frontier between Finland and Sweden and paid in respect of personal services performed in such a commune in the other Contracting State shall be taxable only in the first-mentioned State, provided that the person in question habitually stays at his permanent residence in that State.

#### *Article 16. DIRECTORS' FEES*

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

#### *Article 17. ARTISTS AND ATHLETES*

1. Notwithstanding the provisions of articles 14 and 15, income received by theatre or motion picture actors, radio or television artists, musicians, professional athletes and similar workers for their personal activities as such shall be taxable in the Contracting State in which the activities are performed.

2. Where the income derived from the personal services rendered by an artist or a professional athlete is payable not to the artist or athlete himself but to another person, the said income may, notwithstanding the provisions of articles 7, 14 and 15, be taxed in the Contracting State in which the artist or athlete renders his services.

#### *Article 18. PENSIONS*

1. Pensions (with the exception of pensions covered by the provisions of article 19, paragraph 2) and similar remuneration, as well as annuities, paid to a resident of a Contracting State shall be taxable only in that State.

2. Payments made under the social security law of a Contracting State may, notwithstanding the provisions of paragraph 1, be taxed in that State.

*Article 19. GOVERNMENTAL FUNCTIONS*

1. (a) Remuneration (not including pensions) paid by a Contracting State or its communes or other juridical persons under public law to any individual in respect of work done in the service of that State or its communes or other juridical persons under public law shall be taxable only in that State.

(b) Such remuneration shall, however, be taxable only in the other Contracting State if the work is done in that other State and the recipient is a resident of that State who

- I. Is a national of that State, or
- II. Is not resident there solely for the purpose of doing the said work.

2. (a) Pensions paid by—or out of funds created by—a Contracting State or its communes or other juridical persons under public law to any individual in respect of work done in the service of that State or its communes or other juridical persons under public law shall be taxable only in that State.

(b) Such a pension shall, however, be taxable only in the other Contracting State if the recipient of the pension is a national and resident of that State.

3. The provisions of articles 15, 16 and 18 shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business carried on by one of the Contracting States or its communes or other juridical persons under public law.

*Article 20. STUDENTS AND TRAINEES*

1. A student or business apprentice who is staying in a Contracting State solely for the purposes of his education or training and who is, or immediately before his stay was, a resident of the other Contracting State shall not be taxed in the first-mentioned State in respect of remittances which he receives for his maintenance, education or training, provided that the remittances are paid to him from sources outside of the first-mentioned State.

2. A student at a university or other institution of learning in one Contracting State who, while temporarily staying in the other Contracting State, is employed in that other State for not more than 100 days during the same calendar year for the purpose of obtaining practical experience supplementary to his studies shall be subject to taxation in the last-mentioned State only in respect of that portion of his income from his employment which exceeds 1,500 Swedish kronor per calendar month or the equivalent in Finnish markkaa. The amount exempted from taxation in accordance with this paragraph shall not, however, exceed in the aggregate 4,500 Swedish crowns or the equivalent in Finnish marks.

The competent authorities of the Contracting States shall reach agreement concerning the application of the provisions of the preceding paragraph. The competent authorities may also reach agreement on such modification of the amount specified therein as may be found to be reasonable in relation to changes in currency values, changes in the legislation of the Contracting States or other similar circumstances.

*Article 21. OTHER INCOME*

Unless otherwise specified by the provisions of the foregoing articles, income earned by a resident of a Contracting State shall be taxable in that State.

*Article 22. FORTUNE*

1. Fortune represented by immovable property of the kind referred to in article 6, paragraph 2, may be taxed in the Contracting State in which the property is situated.

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

3. 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 actual management of the enterprise is situated.

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

*Article 23. UNDIVIDED ESTATE OF A DECEASED PERSON*

Where income or fortune belonging to the undivided estate of a deceased person is taxed in one Contracting State, it may not be taxed in the hands of a beneficiary resident in the other Contracting State.

*Article 24. METHODS FOR THE ELIMINATION OF DOUBLE TAXATION*

1. Where a person resident in Finland receives income or owns fortune which, under the provisions of this Agreement, may be taxed in Sweden, Finland shall, except as otherwise provided in paragraphs 2 and 6, allow a deduction from the tax payable on the total income of fortune, for that part of the tax which proportionately corresponds to the income or fortune that may be taxed in Sweden.

2. Where a person resident in Finland receives income which, under the provisions of article 10, may be taxed in Sweden, Finland shall allow as a deduction from the income tax of the person in question an amount corresponding to the tax paid in Sweden. The amount of the deduction shall, however, not exceed that part of the tax, calculated in the absence of such deduction, which corresponds to the income that may be taxed in Sweden.

3. Where a person resident in Sweden receives income or owns fortune which, under the provisions of this Agreement, may be taxed in Finland, Sweden shall, except as otherwise provided in paragraphs 4, 5 and 6,

(a) Allow as a deduction from the income tax of the person in question an amount corresponding to the income tax paid in Finland;

(b) Allow as a deduction from the fortune tax of the person in question an amount corresponding to the fortune tax paid in Finland.

The amount of the deduction shall, however, in no case exceed that part of the Swedish income tax or fortune tax, calculated in the absence of such deduction, which corresponds to the income or fortune that may be taxed in Finland.

4. For the purposes of paragraph 3, where under special legislation relief is granted with respect to Finnish income or fortune tax on the permanent establishment of a Swedish enterprise in Finland, the income tax or fortune tax which would have been paid in Finland if such tax relief had not been granted shall be allowed as a deduction from the Swedish tax on the income or property of the enterprise.

5. Where a person resident in one Contracting State receives income or owns fortune which, under the provisions of this Agreement, may be taxed only in the other Contracting State, the first-mentioned State may include the income or fortune in the amount used as the basis for calculating the tax but shall allow as a deduction from the income tax or fortune tax that part of the income tax or fortune tax which corresponds to the income received from the other Contracting State or the fortune owned there.

6. Where a person resident in one Contracting State receives profits of the kind referred to in article 13, paragraph 4, which may be taxed in the other Contracting State, the said other State shall allow as a deduction from the income tax of the person in question an amount corresponding to the tax paid in the first-mentioned Contracting State on the profits. The amount of the deduction may not, however, exceed that part of the tax in the other Contracting State, calculated in the absence of such deduction, which corresponds to the profits in question.

#### *Article 25. PROHIBITION OF DISCRIMINATION*

1. Nationals of one Contracting State, whether or not they are residents of a Contracting State, shall not be subjected in the other Contracting State to any taxation or any tax requirement connected therewith which is other or more burdensome than the taxation and connected tax requirements to which nationals of the other State are or may be subjected.

2. The taxation on a permanent establishment or fixed base which an enterprise or resident of one Contracting State has in the other Contracting State 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.

This provision shall not be construed as obliging either Contracting State to grant to residents of the other Contracting State any personal tax allowances, reliefs or reductions in respect of civil status or family responsibilities which are granted to residents of the first-mentioned Contracting State. The provision also does not imply the right to tax allowance or exemptions in a Contracting State in respect of dividends paid or other payments made to a company which is a resident of the other Contracting State.

The provisions of paragraph 1 also shall not prevent a Contracting State from taxing income derived from a permanent establishment, in accordance with the rules of that State's own legislation, where the permanent establishment belongs to a joint-stock company or company assimilated thereto in the other Contracting State. The taxation shall, however, correspond to the tax on income, calculated without deduction of distributed profits, levied on joint-stock companies and companies assimilated thereto which are residents of the first-mentioned Contracting State.

3. Enterprises of one Contracting State whose capital 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 tax requirement connected therewith which is other or more burdensome than the taxation and connected tax requirements to which similar enterprises of the first-mentioned State are or may be subjected.

4. For the purposes of this article, the term "taxation" means taxes of every kind and description.

*Article 26.* PROCEDURE FOR REACHING AGREEMENT

1. Where a resident of a Contracting State considers that measures taken by one or both of the Contracting States are resulting or will result for him in taxation not in accordance with the Agreement, he may, without affecting his right to resort to the remedies available under 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 a satisfactory solution, to resolve the case by agreement with the competent authority of the other Contracting State with a view to the avoidance of taxation not in accordance with this Agreement.

3. The competent authorities of the Contracting States shall endeavour to resolve by agreement any difficulties or doubts arising in the interpretation or application of this Agreement. They may also consult together with a view to the avoidance of double taxation in cases not provided for in this Agreement. The competent authorities may also reach reasonable agreement in respect of questions which, without being provided for in this Agreement, may arise in connection with direct taxes on income and fortune by reason of differences in the principles followed by the two States in calculating the taxes or for other reasons.

4. The competent authorities of the Contracting States may communicate with each other direct for the purpose of reaching agreement in the cases referred to in the preceding paragraphs. If it appears desirable, in order to reach agreement, to have an oral exchange of opinions, such exchange may take place through a commission composed of representatives of the competent authorities of the Contracting States.

*Article 27.* DIPLOMATIC AND CONSULAR OFFICIALS

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

2. Notwithstanding the provisions of article 4, paragraphs 1 and 2, of this Agreement, a diplomatic or consular official (with the exception of honorary consuls) or an official of a permanent mission of a Contracting State who is posted in the other Contracting State or in a third State shall, for the purposes of this Agreement, be deemed to be a resident of the sending State if:

- (a) He is not a national of the receiving State, and
- (b) He is not taxable under the general rules of international law in the last-mentioned State in respect of income derived from sources outside that State.

*Article 28.* ENTRY INTO FORCE

1. This Agreement shall be ratified. The Agreement shall enter into force when the two Governments have notified each other, by an exchange of notes at Helsinki, that ratification has taken place. Its provisions shall apply for the first time

- (a) In respect of taxes levied at the source, to income received as of the first day of January immediately following the entry into force, and
- (b) In respect of other taxes on income and taxes on fortune, to such taxes as are payable on the basis of taxation as of the next calendar year immediately following the entry into force.

2. The Agreement of 21 December 1949<sup>1</sup> between the Kingdom of Sweden and the Republic of Finland for the avoidance of double taxation with respect to taxes on income and property, the Additional Agreement of 19 June 1958<sup>2</sup> to that Agreement and the Agreement of 9 September 1968<sup>3</sup> shall cease to have effect and shall no longer apply in respect of the taxes on income or fortune to which the present Agreement shall apply in accordance with paragraph 1.

*Article 29. TERMINATION*

1. This Agreement shall remain in force until it is denounced by one of the Contracting States.

2. Either Contracting State may — not later than 30 June in any calendar year, but not earlier than five years after the date of the entry into force of the Agreement — denounce the Agreement through the diplomatic channel by giving notice in writing to the other Contracting State. In the event of such denunciation, the Agreement shall cease to have effect:

- (a) In respect of taxes levied at the source, on 1 January of the year immediately following the year during which denunciation takes place or later, and
- (b) In respect of other taxes on income and taxes on fortune, in connection with taxation during the second calendar year following the year during which denunciation takes place or later.

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

DONE at Helsinki on 27 June 1973, in duplicate in the Finnish and Swedish languages, both texts being equally authentic.

For the Government  
of the Republic of Finland:

RICHARD TÖTTERMAN

For the Government  
of the Kingdom of Sweden:

GÖRAN RYDING

PROTOCOL

On signing the Agreement concluded this day between the Government of the Republic of Finland and the Government of the Kingdom of Sweden for the avoidance of double taxation with respect to taxes on income and fortune, the undersigned plenipotentiaries have agreed on the following provisions, which shall constitute an integral part of the Agreement:

I. *Ad* Article 15, paragraph 4:

The term “habitually” means that the taxpayer normally stays at least once a week at his permanent residence in the Contracting State in which he is domiciled under the provisions of article 4.

II. *Ad* article 25, paragraph 3:

The provisions of this paragraph mean, *inter alia*, that amounts of interest paid by a person domiciled in Finland to a person domiciled in Sweden shall be allowed as

<sup>1</sup> United Nations, *Treaty Series*, vol. 197, p. 243.

<sup>2</sup> *Ibid.*, vol. 427, p. 372.

<sup>3</sup> *Ibid.*, vol. 968, p. 359.

deductions from taxation in Finland to the extent that would have been the case under Finnish tax legislation if both the payer and the recipient of the interest were domiciled in Finland.

III. *Ad* article 28, paragraph 2:

With respect to tax exemptions for timber floating associations formed to conduct timber floating on the floatway of the Torne and Muonic frontier rivers, the special arrangements agreed upon, or to be agreed upon in the future, shall apply.

IN WITNESS WHEREOF the undersigned, having been duly authorized thereto, have signed this protocol and have thereto affixed their seals.

DONE at Helsinki on 27 June 1973, in duplicate in the Finnish and Swedish languages, both texts being equally authentic.

For the Government  
of the Republic of Finland:

RICHARD TÖTTERMAN

For the Government  
of the Kingdom of Sweden:

GÖRAN RYDING

ADDITIONAL AGREEMENT AMENDING THE AGREEMENT OF 27 JUNE 1973 BETWEEN THE GOVERNMENT OF THE REPUBLIC OF FINLAND AND THE GOVERNMENT OF THE KINGDOM OF SWEDEN FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND FORTUNE AND THE PROTOCOL TO THE AGREEMENT

The Government of the Republic of Finland and the Government of the Kingdom of Sweden, wishing to conclude an additional Agreement amending the Agreement of 27 June 1973 between the aforesaid Governments for the avoidance of double taxation with respect to taxes on income and fortune and the protocol to the Agreement, have agreed as follows:

*Article 1.* Article 3, paragraph 1, *a*, of the Agreement shall be amended to read as follows:

“(a) “Finland” means the Republic of Finland, including any area outside the territorial waters of Finland in which Finland under Finnish legislation and in accordance with the general rules of international law is entitled to exercise its rights with respect to the sea-bed and subsoil and their natural resources; as regards the Finnish communal tax, the term “Finland” does not include the County of Åland;”

*Article 2.* A new article 28, reading as follows, shall be inserted in the Agreement:

“*Article 28.* TERRITORIAL EXTENSION

1. This Agreement may be extended, either in its entirety or with any necessary modifications, to the County or Åland as regards the Finnish communal tax. Such extension shall apply from such date, and subject to such modifications and conditions, including conditions concerning termination of the Agreement, as may be specified and agreed between the Contracting States in notes to be exchanged through the diplomatic channel.



2. Unless otherwise agreed by the Contracting States, the denunciation of the Agreement by one Contracting State under article 30 shall terminate, in the manner provided for in that article, the application of the Agreement to the County of Åland also as regards the Finnish communal tax.”

*Article 3.* Article 28 of the Agreement shall be renumbered article 29. Paragraph 1 of the article shall be amended to read as follows:

“1. This Agreement shall be ratified. The Agreement shall enter into force 30 days after the date on which both Governments, by an exchange of notes at Helsinki, notify each other that ratification has taken place. Its provisions shall apply for the first time

- (a) In respect of taxes levied at the source, to income received as of 1 January 1977, and
- (b) In respect of other taxes on income and taxes on fortune, to such taxes as are payable on the basis of taxation for the year 1978.”

*Article 4.* Article 29 of the Agreement shall be renumbered article 30.

*Article 5.* The heading of paragraph III in the protocol to the Agreement shall be amended to read as follows:

“III. *Ad* article 29, paragraph 2”

*Article 6.* This Additional Agreement shall be ratified. The two Governments shall notify each other by an exchange of notes at Helsinki that ratification has taken place. The Additional Agreement shall constitute an integral part of the Agreement and shall enter into force simultaneously with the Agreement. The provisions of the Additional Agreement shall apply for the first time simultaneously with the provisions of the Agreement.

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

DONE at Stockholm on 9 November 1976, in duplicate in the Finnish and Swedish languages, both texts being equally authentic.

For the Government  
of the Republic of Finland:

JORMA VANAMO

For the Government  
of the Kingdom of Sweden:

KARIN SÖDER

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## TERRITORIAL APPLICATION

By an exchange of notes dated 21 October 1977, the above-mentioned Agreement was extended to the County of Åland as regards the communal tax, with effect from 11 September 1977, in accordance with the said notes and with article 28 (1) of the above-mentioned Agreement, as amended.

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