

No. 17653

FINLAND
and
UNITED REPUBLIC OF TANZANIA

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital. Signed at Helsinki on 12 May 1976

Authentic text: English.

Registered by Finland on 27 March 1979.

Territorial application to the County of Åland

Certified statement was registered by Finland on 27 March 1979.

FINLANDE
et
RÉPUBLIQUE-UNIE DE TANZANIE

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur la fortune. Signée à Helsinki le 12 mai 1976

Texte authentique : anglais.

Enregistrée par la Finlande le 27 mars 1979.

Application territoriale au comté d'Åland

La déclaration certifiée a été enregistrée par la Finlande le 27 mars 1979.

CONVENTION¹ BETWEEN FINLAND AND TANZANIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVEN- TION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Government of the Republic of Finland and the Government of the United Republic of Tanzania,

Desiring to conclude a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital,

Have agreed as follows:

Article 1. PERSONAL SCOPE

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

Article 2. TAXES COVERED

1. This Convention shall apply to taxes on income and on capital imposed on behalf of each Contracting State or of its public communities or local authorities, irrespective of the manner in which they are levied.

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

3. The existing taxes to which the Convention shall apply are

a) In Tanzania: the income tax and any other tax deemed to be an income tax under the Income Tax Act (hereinafter referred to as "Tanzanian tax");

b) In Finland:

(i) The state income and capital tax;

(ii) The communal tax;

(iii) The church tax; and

(iv) The sailor's tax

(hereinafter referred to as "Finnish tax").

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

¹ Came into force on 27 December 1978, i.e., 30 days after the date of the last of the notifications (effected on 13 January and 27 November 1978) by which the Contracting Parties informed each other of the completion of their constitutional requirements, in accordance with article 30.

Article 3. GENERAL DEFINITIONS

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

a) The term “Tanzania” means the United Republic of Tanzania, including any area outside the territorial waters of Tanzania which, in accordance with international law, has been or may be designated, under the laws of Tanzania concerning the Continental Shelf, as an area over which Tanzania may exercise sovereign rights with respect to the exploration for and exploitation of natural resources;

b) The term “Finland” means the Republic of Finland and, when used in a geographical sense, means the territory of the Republic of Finland, and any area adjacent to the territorial waters of the Republic of Finland within which, under the laws of Finland and in accordance with international law, the rights of Finland with respect to the exploration and exploitation of the natural resources of the sea bed and its subsoil may be exercised; as regards the communal tax the term does not include the County of Åland;

c) The terms “a Contracting State” and “the other Contracting State” mean Tanzania or Finland, as the context requires;

d) The term “person” comprises an individual and a company; it includes also a partnership;

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

f) The terms “enterprise of 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;

g) The term “national” means:

- (i) Any individual possessing the nationality of a Contracting State;
- (ii) Any legal person, partnership and association deriving its status as such from the laws in force in a Contracting State;

h) The term “international traffic” means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

i) The term “competent authority” means:

- (i) In Tanzania, the Minister for Finance or his authorised representative;
- (ii) In Finland, the Ministry of Finance or its authorised representative.

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

Article 4. FISCAL DOMICILE

1. For the purposes of this Convention, 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

criterion of a similar nature. But this term does not include any person who is liable to taxation in that Contracting State in respect only of income from sources therein or capital situated in that State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

- a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which 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 has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he 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 by reason of the provision of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

4. An undivided estate shall be deemed to be a resident of the Contracting State of which the deceased was a resident at the time of his death according to the provisions of paragraphs 1 and 2.

Article 5. PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business in which the business 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, oil well, quarry or other place of extraction of natural resources;
- g) A building site or construction or assembly project which exists for more than six months.

3. The term "permanent establishment" shall be deemed not 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 a Contracting State on behalf of an enterprise of the other Contracting State—other than an agent of an independent status to whom paragraph 5 applies—shall be deemed to be a permanent establishment in the first-mentioned State if 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 a 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 any other agent of an independent status, where such persons are acting in the ordinary course of their business.

6. The fact that a company which is a resident of a 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.

Article 6. INCOME FROM IMMOVABLE PROPERTY

1. Income from immovable property including income from agriculture or forestry 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 sub-paragraphs b) and c), 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 general law respecting immovable 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 aircrafts shall not be regarded as immovable property.

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

4. Where the ownership of shares or other corporate rights in a company entitles the holder of the shares or rights to the enjoyment of immovable property owned by the company, the income from the direct use, letting, or

use in any other form of such right to enjoyment may be taxed in the Contracting State in which the immovable property is situated.

5. The provisions of paragraphs 1, 3 and 4 shall also apply to the income from immovable property of an enterprise and to income from immovable property 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, 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 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 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. If an enterprise of a Contracting State, which has a permanent establishment in the other Contracting State, sells goods or merchandise of the same or similar kind as those sold by the permanent establishment, or renders services of the same or similar kind as those rendered by the permanent establishment, the profits of such activities may be attributed to the permanent establishment unless the enterprise proves that such sales or services are not attributable to the activity of the permanent establishment.

4. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses 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, but this does not include any expenses which, under the law of that State, would not be allowed to be deducted by an independent enterprise of that State.

5. 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 principles laid down in this article.

6. 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.

7. 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.

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

Article 8. AIR TRANSPORT AND SHIPPING

1. Profits derived by an enterprise of a Contracting State from the operation of aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. Profits derived by an enterprise of a Contracting State from the operation of ships in international traffic may be taxed in both Contracting States according to the law of each Contracting State.

3. Where an enterprise of a Contracting State derives profits referred to in paragraph 2 from operations in the other Contracting State, then

- a) Such profits shall be deemed not to exceed an amount equal to 5 per cent of the gross amount derived by the enterprise from transporting persons or goods embarked in that other State;
- b) The tax chargeable on such profits in that other State shall be reduced by 50 per cent.

4. If the place of effective management of a shipping enterprise is aboard a ship, then 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.

5. The provisions of paragraph 1 shall also apply to profits derived from the participation in a pool, in a joint business or in an international operating agency.

Article 9. ASSOCIATED ENTERPRISES

1. Where

- a) An enterprise of a 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 a 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. Where profits on which an enterprise of a Contracting State have been charged to tax in that State are also included in the profits of an enterprise of the other Contracting State and taxed accordingly and the profits so included are profits which would have accrued to that enterprise of the other State if the conditions made between the enterprises had been those which would have been made between independent enterprises, then the first-mentioned State shall

make an appropriate adjustment to the amount of tax charged on those profits in the first-mentioned State. In determining such an adjustment due regard shall be had to other provisions of this Convention in relation to the nature of the income, and for this purpose the competent authorities of the Contracting States shall if necessary consult each other.

Article 10. DIVIDENDS

1. Dividends paid by a company which is a resident of a 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 so charged shall not exceed 20 per cent of the gross amount of the dividends.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this article means income from shares, or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subject to the same taxation treatment as income from shares by the taxation law of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State professional services from a fixed base situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of article 7 or article 15, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on dividends paid by the company to residents of the first-mentioned State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid, or the undistributed profits consist wholly or partly of profits or income arising in that other State. The provisions of this paragraph shall not prevent that other State from taxing dividends paid to residents of that State or dividends relating to a holding which is effectively connected with a permanent establishment or fixed base maintained in that other State by a resident of the first-mentioned State.

Article 11. INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that State, but the tax so charged shall not exceed 15 per cent of the gross amount of the interest. The competent

authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to the other Contracting State itself or a public community or a local authority thereof, or any institution wholly owned by that State of community or local authority shall be exempt from tax in the first-mentioned Contracting State. The competent authorities of the Contracting State may determine by mutual agreement any other governmental institution to which this paragraph shall apply.

4. The term "interest" as used in this article means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this article.

5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State professional services from a fixed base situated therein, and debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of article 7 or article 15, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the [payer] is that Contracting State itself, a public Community, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by that permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

7. 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 Convention.

Article 12. ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may be taxed in the Contracting State in which they arise, and according to the law of that State, but the tax so charged shall not exceed 20 per cent of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. 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 patent, trade mark, design or model, plan, secret formula or process, or any industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience, any copyright of literary, artistic or scientific work including cinematograph films, and films or tapes for television or radio broadcasting.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State professional services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of article 7 or article 15, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a public community or corporation, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. Where, owing to a special relationship between the payer and the recipient or 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 Convention.

Article 13. CAPITAL GAINS

1. Gains from the alienation of immovable property, as defined in paragraph 2 of article 6, or corporate rights referred to in paragraph 4 of article 6, may be taxed in the Contracting State in which such immovable 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 a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a 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. However, gains from the alienation of movable property of the kind referred to in paragraph 3 of article 23 shall be taxable only in the Contracting State in which such movable property is taxable according to the said article.

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

Article 14. MANAGEMENT OR PROFESSIONAL FEES

1. Management or professional fees arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such management or professional fees may be taxed in the Contracting State in which they arise, and according to the law of that State, but the tax so charged shall not exceed 20 per cent of the gross amount of the fees.

3. The term “management or professional fees” as used in this article means payments of any kind to any person, other than to an employee of the person making the payments, in consideration for any services of a managerial, technical, professional or consultancy nature.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the management or professional fees, being a resident of a Contracting State, carries on business in the other Contracting State in which the fees arise, through a permanent establishment situated therein, or performs in that other State professional services from a fixed base situated therein, and the fees are effectively connected with such permanent establishment or fixed base. In such a case the provisions of article 7 or article 15, as the case may be, shall apply.

5. Management or professional fees shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a public community, a local authority or a resident of that State. Where, however, the person paying the fees, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the fees was incurred, and such fees are borne by such permanent establishment, then such fees shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

Article 15. INDEPENDENT PERSONAL SERVICES

1. Subject to the provisions of article 14, 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:

- a) He has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities, in which case so much of the income may be taxed in that other State as is attributable to that fixed base; or
- b) He is present in the other Contracting State for the purpose of performing his activities for a period or periods exceeding in the aggregate 183 days in the calendar year concerned, in which case so much of the income may be taxed in that other State as is attributable to the activities performed in that other State.

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 16. DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of articles 17, 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 a 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) The remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- c) The remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 17. DIRECTORS' FEES

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 another similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 18. ARTISTES AND ATHLETES

1. Notwithstanding the provisions of articles 15 and 16, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, 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. Where income in respect of personal activities as such of an entertainer or athlete accrues not to that entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of articles 7, 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to services of public entertainers and athletes, if their visit to a Contracting State is supported wholly or substantially from public funds of the other Contracting State.

Article 19. GOVERNMENT SERVICE

1. a) Remuneration, other than a pension, paid by a Contracting State or a public community or corporation or a local authority thereof to any individual in respect of services rendered to that State, public community or corporation or local authority thereof shall be taxable only in that State;

b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the recipient is a resident of that other Contracting State who:

(i) Is a national of that State; or

(ii) Did not become a resident of that State solely for the purpose of performing the services.

2. *a)* Any pension paid by, or out of funds created by, a Contracting State or a public community or corporation or a local authority thereof to any individual in respect of services rendered to that State, public community or corporation or local authority thereof shall be taxable only in that State;

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

3. The provisions of articles 16, 17 and 20 shall apply to remuneration and pensions in respect of services rendered in connection with any business carried on by a Contracting State or a public community or corporation or a local authority thereof.

Article 20. PENSIONS

Subject to the provisions of paragraph 2 of article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 21. STUDENTS

1. Payments which a student or business, technical, agricultural or forestry apprentice who is present in a Contracting State solely for the purpose of his education or training and who is or was immediately before such visit a resident of the other Contracting State received for the purpose of his maintenance, education or training shall not be taxed in the first-mentioned Contracting State, provided that such payments are made to him from sources outside that State.

2. A student at a university or other institution for higher education in a Contracting State, or a business, technical, agricultural or forestry apprentice who is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned and who is or was immediately before such visit a resident of the first-mentioned State, shall not be taxed in the other Contracting State in respect of remuneration for services rendered in that other State, provided that the services are in connection with his studies or training and the remuneration constitutes earnings necessary for his maintenance.

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 Convention shall be taxable only in that State.

Article 23. CAPITAL

1. Capital represented by immovable property, as defined in paragraph 2 of article 6, or corporate rights referred to in paragraph 4 of article 6, may be taxed in the Contracting State in which such immovable property is situated.

2. Capital 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 for the performance of professional services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.

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

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

Article 24. ELIMINATION OF DOUBLE TAXATION

1. Subject to the provisions of the law of Tanzania regarding the allowance as a credit to a Tanzanian resident against Tanzanian tax of tax payable in a territory outside Tanzania, Finnish tax payable under the laws of Finland and in accordance with this Convention, whether directly or by deduction, in respect of income from sources within Finland shall be allowed as a credit against any Tanzanian tax payable in respect of that income. The credit shall not, however, exceed the Tanzanian tax, computed before allowing any such credit, which is appropriate to the income derived from Finland.

2. *a)* Where a resident of Finland derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Tanzania, Finland shall allow as a deduction from the taxes on income or the tax on capital of that person, an amount equal to the Tanzanian taxes paid on income or the Tanzanian tax paid on capital, respectively. The deduction shall not, however, exceed that part of the tax on income or on capital, respectively, as computed before the deduction is given, which is appropriate, as the case may be, to the income or capital which may be taxed in Tanzania.

b) Notwithstanding the provisions of paragraph *a)*, dividends paid by a company which is a resident of Tanzania to a company which is a resident of Finland shall be exempt from Finnish tax to the extent that the dividends would have been exempt from tax under Finnish taxation law if both companies had been residents of Finland. This exemption shall not apply unless the profits out of which the dividends are paid have been subjected in Tanzania to the normal income tax which applies at the date of signature of this Convention or an income tax comparable thereto, or the principal part of the profits of the company paying the dividend arises, directly or indirectly, from business activities other than the management of securities and other similar property, and such activities are carried on within Tanzania by the company paying the dividends or by a company in which it owns at least 25 per cent of the voting power.

3. Where under this Convention income derived by a resident of a Contracting State from the other Contracting State is exempt from tax in the first-mentioned State, then the first-mentioned State may, in calculating tax on the

remaining income of that person, apply the rate of tax which would have been applicable if the income exempted from tax in accordance with this Convention had not been so exempted.

4. For the purposes of paragraph 2, the term "Tanzanian taxes paid on income"

- a) Shall be understood to mean payments made in respect of the tax allocated to Tanzania in any assessment in accordance with section 79 (2) of the Income Tax Act, 1973;
- b) Shall be deemed to include any amount which would have been payable as Tanzanian tax for any year but for
 - (i) Any investment deduction granted under paragraphs 24, 25 and 26 of the Second Schedule to the Income Tax Act, 1973; or
 - (ii) The lower corporation rate of income tax provided by paragraph 4 (b) of the Third Schedule to the Income Tax Act, 1973; or
 - (iii) Any other provisions which may subsequently be enacted granting an exemption or reduction of tax which the competent authorities of the Contracting States agree to be for the purpose of economic development.

The provisions of sub-paragraph (b) (i) and (ii) shall apply for the first 5 years for which this Convention is effective but the competent authorities of the Contracting States may consult each other to determine whether this period shall be extended.

Article 25. NON-DISCRIMINATION

1. The nationals of a 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 permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which 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 Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.

2. The competent 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 the Convention.

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 Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

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. EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention in so far as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities, including courts, other than those concerned with the assessment, collection, enforcement or prosecution in respect of the taxes which are the subject of the Convention.

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

- a) To carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;
- b) To supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- c) To supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

Article 28. DIPLOMATIC AND CONSULAR OFFICIALS

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

Article 29. TERRITORIAL EXTENSION

1. This Convention may be extended, either in its entirety or with any necessary modifications, to the County of Åland as regards also the communal tax. 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 diplomatic channels.

2. Unless otherwise agreed by both Contracting States, the denunciation of the Convention by one of them under article 31 shall terminate, in the manner provided for in that article, the application of the Convention to the County of Åland as regards also the communal tax.

Article 30. ENTRY INTO FORCE

1. The Governments of the Contracting States shall notify to each other that the constitutional requirements for the entry into force of this Convention have been complied with.

2. The Convention shall enter into force thirty days after the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect for the first time in both Contracting States:

- a) In respect of taxes withheld at source, to amounts derived on 1 January in the calendar year next following the year in which the Convention enters into force;
- b) In respect of other taxes on income, and taxes on capital, to taxes chargeable for the taxable year beginning on or after 1 January in the calendar year next following the year in which the Convention enters into force.

Article 31. TERMINATION

This Convention shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year following after the period of 5 years from the date on which the Convention enters into force. In such event, the Convention shall cease to have effect in both Contracting States:

- a) In respect of taxes withheld at source, to amounts derived on or after 1 January in the calendar year next following the year in which the notice is given;
- b) In respect of other taxes on income, and taxes on capital, to taxes chargeable for any taxable year beginning on or after 1 January in the calendar year next following the year in which the notice is given.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Convention.

DONE in duplicate at Helsinki this 12 day of May 1976, in the English language.

For the Government
of the Republic of Finland:
KALEVI SORSA

For the Government
of the United Republic of Tanzania:
A. H. JAMAL

TERRITORIAL APPLICATION OF THE CONVENTION OF 12 MAY 1976
BETWEEN FINLAND AND THE UNITED REPUBLIC OF TANZANIA
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PRE-
VENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON
INCOME AND ON CAPITAL¹

By an exchange of notes dated 4 December and 12 December 1978, the above-mentioned Convention was extended, in accordance with article 29 (1), to the County of Åland as regards the communal tax, with effect from 27 December 1978, the date of entry into force of the Convention.

¹ See p. 274 of this volume.