

No. 19665

**FINLAND
and
UNION OF SOVIET SOCIALIST REPUBLICS**

**Agreement concerning taxation (with protocol). Signed at
Moscow on 15 April 1977**

Authentic texts: Finnish and Russian.

Registered by Finland on 25 March 1981.

**FINLANDE
et
UNION DES RÉPUBLIQUES SOCIALISTES
SOVIÉTIQUES**

**Accord relatif aux questions fiscales (avec protocole). Signé
à Moscou le 15 avril 1977**

Textes authentiques : finnois et russe.

Enregistré par la Finlande le 25 mars 1981.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE REPUBLIC OF FINLAND AND THE UNION OF SOVIET SOCIALIST REPUBLICS CONCERNING TAXATION

The President of the Republic of Finland and the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics,

In view of the friendly, good-neighbourly relations existing between the two countries on the basis of the Treaty of friendship, co-operation and mutual assistance of 6 April 1948 between the Republic of Finland and the Union of Soviet Socialist Republics,²

Wishing to conclude an agreement concerning taxation and confirming their desire, in accordance with the Final Act of the Conference on Security and Co-operation in Europe, signed at Helsinki on 1 August 1975,³ further to develop and deepen economic, industrial and technical co-operation and with a view to avoiding double taxation,

Have decided to conclude this Agreement and, for that purpose, have appointed as their plenipotentiaries:

The President of the Republic of Finland: Mr. Ahti Karjalainen, Minister for the Economy and Treasury of the Republic of Finland,

The Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics: Mr. Nikolai Semenovich Patolichev, Minister for Foreign Trade of the Union of Soviet Socialist Republics,

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

Article 1. PERSONS TO WHOM THE AGREEMENT APPLIES

This Agreement shall apply to persons who, for tax purposes, are deemed to be permanent residents of one or both of the Contracting States.

Article 2. TAXES TO WHICH THE AGREEMENT APPLIES

This Agreement shall apply to the following taxes:

- (a) In the case of the Union of Soviet Socialist Republics: taxes and dues levied on property, income and salaries provided for under the All-Union legislation and under the legislation of the Union Republics, and also taxes and dues established at the local level;
- (b) In the case of the Republic of Finland: taxes and dues levied on property, income and salaries provided for under the legislation of the Republic of Finland, including the communal tax.

¹ Came into force on 30 December 1977, i.e., 30 days after the transmittal of the last of the notifications by which the Contracting States had informed each other (on 30 November 1977) of the completion of the constitutional formalities, in accordance with article 14 (1).

² United Nations, *Treaty Series*, vol. 48, p. 149.

³ *International Legal Materials*, vol. 14, 1975, p. 1292.

Article 3. GENERAL DEFINITIONS

The terms used in this Agreement shall have the following meanings:

1. "USSR" means the Union of Soviet Socialist Republics and, when used in a geographical sense, the territories of all the Union Republics.

This term also includes:

- (a) The territorial waters of the USSR;
- (b) The sea-bed and subsoil of the submarine areas adjacent to the coast or islands of the USSR, but situated beyond the limits of the territorial waters, over which the USSR, in accordance with its own legislation and international law, exercises sovereign rights with respect to the exploration and exploitation of the natural resources of such areas.

2. "Finland" means the Republic of Finland and, when used in a geographical sense, the territory of the Republic of Finland; as regards communal taxation, the term does not apply to the province of the Åland islands.

This term also includes:

- (a) The territorial waters of Finland;
- (b) Areas adjacent to the territorial waters of Finland, over which Finland, in accordance with its own legislation and international law, exercises sovereign rights with respect to the exploration and exploitation of the natural resources of the sea-bed and the subsoil of submarine areas.

3. "A permanent resident of a Contracting State" means:

- (a) In the case of a permanent resident of the USSR: a legal entity established under the laws of the USSR or of any Union Republic, or any organization which is treated as a legal entity in the USSR, for tax purposes, and also an individual having permanent residence in the USSR for tax purposes;
- (b) In the case of a permanent resident of Finland: individuals, companies or other associations which, under the legislation of Finland, are obliged to pay taxes in Finland by reason of permanent residence, domicile, place of management or any other criterion of a similar nature.

4. "One Contracting State" and "the other Contracting State" means the USSR or Finland, as the context requires.

5. "International transport" means by sea or river vessels, by motor vehicles or by rail between points situated in different States. If the transport is effected solely between points situated in the territory of only one Contracting State, it shall not be regarded as international transport.

6. "The competent authorities" mean:

- (a) In the case of the USSR: the Ministry of Finance of the USSR or its authorized representative;
- (b) In the case of Finland: the Ministry of Finance of Finland or its authorized representative.

Article 4. LICENSE PAYMENTS

1. License payments received from a source in one Contracting State and paid to a permanent resident of the other Contracting State shall not be taxable in the first Contracting State.

2. The term “licence payments” in this article means all payments made for the sale of, use of or granting of the right to use:

- (a) Copyright in works of science, literature and art;
- (b) Inventions (whether or not protected by patents or author’s certificates);
- (c) Industrial and general-purpose designs;
- (d) Factory marks, trademarks and service marks;
- (e) Names of firms and similar property;
- (f) Computer programmes;
- (g) Tapes for the production of gramophone records and other means of sound reproduction;
- (h) Tapes and films used for radio and television broadcasting.

3. The term “licence payments” in this article also refers to all payments made for the transfer of experience, knowledge and production secrets (know-how).

4. The provisions of this article shall also apply to:

- (a) Payments made for the sale of, use of or granting of the right to use industrial and scientific equipment and other scientific and technical facilities, provided that such payments relate to sale, use or granting of the right to use as envisaged in this article;
- (b) Payments made for the provision of technical services, provided that such payments relate to sale, use or granting of the right to use as envisaged in this article;
- (c) Payments made for the production of recordings on gramophone records, tapes and other sound reproduction equipment.

Article 5. REPRESENTATION

1. Income derived in one Contracting State from the activity of a permanent resident of the other Contracting State shall be taxable in the first Contracting State only if that income is regarded as the income of a representation of that resident situated in the first Contracting State.

2. Income regarded as the income of a representation, as envisaged in paragraph 1, shall not be taxable in the Contracting State in which the representation is situated if that income is derived from the following types of activity:

- (a) The purchase of goods;
- (b) The storage of goods and warehousing operations connected with such storage;
- (c) The demonstration of goods and other articles and the display of exhibits at exhibitions and also operations for the sale of such items at the closure of exhibitions;

(d) Advertising, the collection and dissemination of information, and marketing or similar activities which are subsidiary or preparatory to the basic activity of the person concerned.

3. A permanent resident of one Contracting State shall not be deemed to have a representation in the other Contracting State merely because he carries on business in that other Contracting State through a broker, commission agent or other agent of independent status, provided that such persons are acting in the ordinary course of their business.

4. The term "representation" means:

- (a) With regard to income received in the USSR: an office, bureau or other similar representation established in the USSR by a permanent resident of Finland in accordance with the laws in force in the USSR;
- (b) With regard to income received in Finland: an office or other place of business established in Finland by a permanent resident of the USSR in accordance with the laws in force in Finland.

5. In determining the income of a representation, the expenses that are connected with the performance of its activity, including executive and general administrative expenses, shall be deducted from the total income.

6. A permanent resident of one Contracting State shall, in the cases envisaged in paragraphs 2 and 3, be exempt in the other Contracting State in the capacity of employer from payment of the taxes and dues which employers in accordance with the legislation of that Contracting State, are obliged to pay on the basis of the wages paid by them. Such taxes and dues shall also include social security contributions.

7. The provisions of this article shall not affect the tax exemption envisaged in article 4 and article 7, paragraph 1.

Article 6. INCOME FROM CONSTRUCTION AND INSTALLATION WORK

1. Income received by a permanent resident of one Contracting State from the construction of a project in the other Contracting State shall not be taxable in that other Contracting State if the duration of work on the construction does not exceed 12 months. In appropriate cases, the competent authorities of the Contracting State in the territory of which the project is being constructed may also refrain from taxing such income in cases where the duration of work on the construction exceeds 12 months.

2. Income received by a permanent resident of one Contracting State from installation work in the other Contracting State over a period not exceeding 12 months shall not be taxable in that other Contracting State. However, if a permanent resident of one Contracting State carries out installation work connected with the supply of machinery and equipment from that Contracting State to the other Contracting State, income derived from such installation work shall not be taxable in the Contracting State in which the work is carried out even if its duration exceeds 12 months.

3. A permanent resident of one Contracting State shall in the cases envisaged in paragraphs 1 and 2, be exempt in the other Contracting State in the capacity of employer from payment of the taxes and dues which employers, in accordance with the legislation of that other Contracting State, are obliged to pay on the basis

of the wages paid by them. Such taxes and dues shall also include social security contributions.

Article 7. INCOME FROM INTERNATIONAL TRANSPORT

1. Income which a permanent resident of one Contracting State receives from the operation in international traffic of sea or river vessels registered in that Contracting State shall not be taxable in the other Contracting State.

2. Income received by a permanent resident of one Contracting State from other types of international transport envisaged in this Agreement, apart from those referred to in paragraph 1, shall not be taxable in the other Contracting State if that income is not regarded as income of a representation of that resident situated in the other Contracting State.

3. A permanent resident of one Contracting State shall, in the cases envisaged in paragraphs 1 and 2, be exempt in the other Contracting State in the capacity of employer from payment of the taxes and dues which employers, in accordance with the legislation of that Contracting State, are obliged to pay on the basis of the wages paid by them. Such taxes and dues shall also include social security contributions.

4. In respect of the taxation of airlines and their personnel, the Agreement between the Government of the Republic of Finland and the Government of the USSR on the reciprocal exemption of the airlines and their personnel from taxes and social security payments, concluded on 5 May 1972,¹ shall apply.

Article 8. SALARIES AND CERTAIN OTHER TYPES OF INCOME OF INDIVIDUALS

1. The following categories of individuals with permanent residence in one Contracting State shall not be subject to taxation in the other Contracting State:

(a) Citizens of one Contracting State:

—In respect of remuneration for the performance of functions connected with the activities of that State. Functions performed by a citizen of one Contracting State shall be regarded as State functions by the other Contracting State if they are regarded as such under the national legislation of the first-mentioned Contracting State;

(b) Persons present in the other Contracting State for the purpose of performing work on the construction of projects:

—In respect of income in the form of salary for work in that Contracting State which is directly connected with the construction of a project, income from the construction of which is not taxable in that other Contracting State in accordance with article 6, paragraph 1;

(c) Persons present in the other Contracting State at the invitation of a State body or institution or an academic or scientific research institution of that Contracting State for the primary purpose of teaching, conducting scientific research, or participating in scientific, technical or professional conferences:

—In respect of income received from teaching, conduct of scientific research or participation in such conferences during their stay in that other Contracting State, which shall not, however, exceed three years. The provisions of this paragraph shall not apply in cases when the teaching, conduct of scientific research

¹ United Nations, *Treaty Series*, vol. 861, p. 69.

or participation in conferences primarily serve the private interests of a person with permanent residence in the first-mentioned Contracting State;

(d) Students, graduate students and trainees present in the other Contracting State for the primary purpose of studying or acquiring specialized experience:

—In respect of grants, and also sums of money received by them from sources outside the other Contracting State for living expenses, education and acquiring specialized experience. The privileges envisaged in this paragraph shall be granted for the period necessary to attain the purpose of the visit, which shall not exceed six years;

(e) The personnel of means of transport used for international maritime, river, automobile and rail transportation by one of the Contracting States or by a person with permanent residence in that State:

—In respect of income in the form of salaries of such personnel received for work directly connected with such transport operations.

2. Income received in the form of salary by an individual with permanent residence in one Contracting State for work he has carried out in the other Contracting State which is not exempt from taxation in accordance with paragraph 1 shall not be taxable in the latter Contracting State if the person concerned is present in that Contracting State for one or more periods of time not exceeding a total of 183 days in the calendar year or, in the case of assembly workers or technical specialists, 365 days in two consecutive calendar years, or, in the case of journalists and press, radio and television correspondents, 730 days in the course of three consecutive calendar years; if the employer by whom or on behalf of whom the salaries are paid does not have permanent residence in that Contracting State; and if expenditure on salaries is not borne by a representation of the employer situated in the other Contracting State.

3. The provisions of this Agreement shall not affect the fiscal privileges of diplomatic and consular officials, including employees of the USSR Trade Mission in Finland, granted under the general norms of international law or under special agreements.

Article 9. CERTAIN OTHER TYPES OF INCOME

The following types of income received by a permanent resident of one Contracting State from sources in the other Contracting State shall not be taxable in the other Contracting State:

- (a) Interest on bank credits and loans;
- (b) Interest on funds placed in accounts and other deposits in bank and other credit institutions;
- (c) Income received from performances on tour and other public appearances;
- (d) Prizes, bonuses and awards paid to participants and winners of sporting and other competitions and contests;
- (e) Income from the sale of property received as a legacy or gift.

Article 10. PROPERTY

1. Immovable property of a permanent resident of one Contracting State which is situated in the other Contracting State shall not be taxable in the first-mentioned Contracting State.

The term “immovable property” shall be defined in accordance with the law of the Contracting State in which the property is situated.

2. Except as otherwise provided in paragraphs 3 and 4, movable property belonging to a representation situated in one Contracting State of a permanent resident of the other Contracting State shall be taxable only in the Contracting State in which the representation is situated.

3. A permanent resident of one Contracting State shall not be subject to taxation in the other Contracting State in respect of movable property situated in that other Contracting State and intended for use in the performance of the activities envisaged in article 5, paragraph 2.

4. Means of transport used directly in international transport by a permanent resident of one Contracting State, and other movable property pertaining to their use which is situated in the other Contracting State shall not be taxable in that other Contracting State.

5. Other movable property of a permanent resident of one Contracting State which is not referred to in paragraphs 2, 3 and 4 shall not be taxable in the other Contracting State.

Article 11. EXCHANGE OF INFORMATION ON TAX LEGISLATION

The competent authorities of the Contracting States shall, to the extent allowed by their national legislation, exchange information about changes in their tax legislation and also, on request, other material necessary for implementing the taxation provided for under this Agreement.

Article 12. CO-OPERATION BETWEEN THE COMPETENT AUTHORITIES

The competent authorities may agree between themselves in the established manner on the implementation of this Agreement. They shall also endeavour to ensure that permanent residents of one Contracting State pay the taxes levied in the other Contracting State.

Article 13. QUESTIONS COVERED BY THE PROVISIONS OF THE AGREEMENT

1. The Contracting States, under the system established by this Agreement, shall limit their rights provided for under national legislation to tax permanent residents of the other Contracting State. In other cases, the national legislation of the Contracting State shall apply.

2. This Agreement may be extended in its present form or with the necessary modifications to the communal tax of the province of the Åland islands. Such extension of the sphere of operation of the Agreement shall take effect from the date on which such modifications are made and under such conditions, including conditions as to termination, as are specified and agreed upon between the Contracting States by an exchange of notes through the diplomatic channel.

In the event of denunciation of the Agreement by one of the Contracting States in accordance with article 15, unless otherwise agreed between the Contracting States, the Agreement shall also cease to apply to the communal tax of the province of the Åland islands as envisaged in that article.

3. In the application of this Agreement, any term which is not specifically defined or in respect of which no definition may be derived from the context

shall have the meaning ascribed to it in the national legislation of the Contracting State in which the taxes are levied.

Article 14. ENTRY INTO FORCE

1. Each Contracting State shall notify the other when it has completed the constitutional formalities necessary for the entry into force of this Agreement.

2. The Agreement shall enter into force 30 days after the transmittal of the last of the notifications referred to in paragraph 1, and its provisions shall apply:

- (a) As regards taxes levied directly on income received—in respect of amounts of income received starting on 1 January of the calendar year following the year in which the Agreement enters into force;
- (b) As regards taxes on other types of income and on property—in respect of taxes levied during taxation periods starting on 1 January or after 1 January of the calendar year following the year in which the Agreement enters into force.

3. As soon as the provisions of this Agreement enter into force, the understanding between Finland and the USSR of 13 October 1970 concerning the taxation of licence fees shall cease to be in force, and that understanding shall no longer apply to situations covered by this Agreement in accordance with the provisions of paragraph 2.

Article 15. TERMINATION

This Agreement shall remain in force until one of the Contracting States denounces it. Either Contracting State may denounce the Agreement, three years after the date of its entry into force, by giving notice of its denunciation through the diplomatic channel at least six months before the end of any calendar year. In such cases the Agreement shall cease to have effect:

- (a) As regards taxes levied directly on income received—in respect of amounts of income received starting on 1 January or after 1 January of the calendar year following the year in which notification of denunciation was transmitted;
- (b) As regards taxes on other types of income and on property—in respect of taxes levied during taxation periods starting on 1 January of the calendar year following the year in which notification of denunciation was transmitted.

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

DONE in Moscow on 15 April 1977, in duplicate in the Finnish and Russian languages, both texts being equally authentic.

For the President of the Republic of Finland:

[Signed]

AHTI KARJALAINEN

For the Presidium of the Supreme Soviet of the Union
of Soviet Socialist Republics:

[Signed]

N. S. PATOLICHEV

PROTOCOL

At the time of signing the Agreement between the Republic of Finland and the Union of Soviet Socialist Republics on taxation, an understanding was reached on the following:

1. In article 1 of the Agreement, a person with permanent residence in both Contracting States means a person who, in accordance with the tax legislation of one Contracting State, is deemed to be a permanent resident of that Contracting State and who, in accordance with the tax legislation of the other Contracting State, is deemed to be a permanent resident during the same period in that other Contracting State. If a case arises of dual permanent residence, the competent authorities of the Contracting States shall agree in accordance with article 12 of the Agreement on the State of which the person shall be deemed to be a permanent resident for the application of the Agreement.

2. In article 2, paragraph (b), of the Agreement, the communal tax means the tax levied on income for the benefit of the commune.

3. In article 3, paragraph 3 (b), of the Agreement, the term “other associations” means, in particular, cases of contested legacies (*jakamaton kuolinpesä*), which, under Finnish law, refers to associations consisting of two or more legatees; of persons in respect of which there is a single will; or, in certain cases, of those persons and the surviving spouse; such associations are formed at the time of the death of the legator and are dissolved after distribution of the bequeathed property.

4. In Article 3, paragraph 6, of the Agreement, the term “representative” means an individual or a legal entity, establishment or organization.

5. In article 4, paragraph 4 (a), of the Agreement, equipment and facilities sold means only single items which are sold exclusively on the basis of a licence agreement.

6. In the application of article 5, paragraph 1, of the Agreement, income received, in particular, from carrying out joint design and scientific research work, testing of samples, machinery, equipment and other goods, rentals, including “leasing” type operations and also the technical servicing of machinery and equipment shall not be taxable if the income received from such activity is not regarded as income of the representation.

7. In the application of article 5, paragraph 3, of the Agreement, Soviet foreign trade organizations shall be considered to perform the functions of a broker, commission agent or other agent with independent status for various Soviet industrial or other organizations when purchasing goods and services from Finnish companies. Similarly, representatives of Finnish companies present in the USSR, when selling goods to Soviet foreign trade organizations shall be regarded as making conditional sales through a broker, commission agent or other agent with independent status.

At the same time, an understanding has been reached that a company carrying out the functions of broker, commission agent or other agent with independent status in Finland in accordance with the legislation of Finland shall be considered as a broker, commission agent or other agent with independent status regardless of whether the company is owned by a person with permanent residence in Finland or abroad or is owned by a foreign company or organization.

8. Income received from installation work referred to in article 6, paragraph 2, of the Agreement means income other than income in the form of a salary.

9. In accordance with article 8, paragraph 1 (c), of the Agreement, permanent residents of one Contracting State shall be exempt from taxation in the other Contracting State when they are present in that Contracting State in order to carry out intergovernmental co-operation programmes.

10. In the application of article 10, paragraph 1, of the Agreement, immovable property means:

In respect of the USSR—buildings, and also the right to use buildings and plots envisaged under the legislation of the USSR;

In respect of Finland—immovable property and plots with buildings on them as envisaged under the legislation of Finland and also other rights in respect of immovable property and buildings which are regarded as immovable property under the tax legislation of Finland.

This Protocol shall constitute an integral part of the Agreement between the Republic of Finland and the Union of Soviet Socialist Republics on taxation.

DONE at Moscow, on 15 April 1977, in duplicate in the Finnish and Russian languages, both texts being equally authentic.

For the President of the Republic of Finland:

AHTI KARJALAINEN

For the Presidium of the Supreme Soviet of the Union
of Soviet Socialist Republics:

N. S. PATOLICHEV
