

**No. 19587**

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**FINLAND  
and  
POLAND**

**Convention for the avoidance of double taxation with  
respect to taxes on income and capital. Signed at  
Helsinki on 26 October 1977**

*Authentic text: English.*

*Registered by Finland on 24 February 1981.*

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**FINLANDE  
et  
POLOGNE**

**Convention tendant à éviter la double imposition en matière  
d'impôts sur le revenu et sur la fortune. Signée à  
Helsinki le 26 octobre 1977**

*Texte authentique : anglais.*

*Enregistrée par la Finlande le 24 février 1981.*

CONVENTION<sup>1</sup> BETWEEN THE GOVERNMENT OF THE REPUBLIC  
OF FINLAND AND THE GOVERNMENT OF THE POLISH  
PEOPLE'S REPUBLIC FOR THE AVOIDANCE OF DOUBLE  
TAXATION WITH RESPECT TO TAXES ON INCOME AND  
CAPITAL

The Government of the Republic of Finland and the Government of the Polish People's Republic,

Desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income and 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 Poland:

- 1) The income tax (*podatek dochodowy*);
- 2) The tax on wages or salaries (*podatek od wynagrodzeń*);
- 3) The surcharge on the income tax or on the tax on wages or salaries (*podatek wyrównawczy*)

hereinafter referred to as "Polish taxes";

b) In Finland:

- 1) The state income and capital tax (*tuloja varallisuusvero*);
- 2) The communal tax (*kunnallisvero*);
- 3) The church tax (*kirkollisvero*);
- 4) The sailors' tax (*merimiesvero*)

hereinafter referred to as "Finnish taxes".

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

<sup>1</sup> Came into force on 30 March 1979, i.e., 30 days after the date of the last of the notifications (effected on 27 November 1978 and 28 February 1979) by which the Contracting States notified each other of the completion of the constitutional requirements for its entry into force, including ratification, in accordance with article 29.

shall notify to each other any substantial changes which have been made in their respective taxation laws.

### *Article 3. GENERAL DEFINITIONS*

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

a) The term "Poland" means the Polish People's Republic and, when used in a geographical sense, means the territory of the Polish People's Republic, and any area adjacent to the territorial waters of the Polish People's Republic within which, under the laws of Poland and in accordance with international law, the rights of Poland with respect to the exploration and exploitation of the natural resources of the sea bed and its sub-soil may be exercised;

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 sub-soil 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 Poland or Finland as the context requires;

d) The term "person" comprises an individual, a company and any other body of persons, and 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:

1) Any individual possessing the nationality of a Contracting State;

2) Any legal person, partnership and association deriving its status as such from the law in force in a Contracting State;

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

i) The term "competent authority" means:

— In Poland, the Minister of Finance or his authorised representative;

— In Finland, the Ministry of Finance or its authorised representative.

2. As regards the application of this 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 this 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 this case 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 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 if he has not an habitual abode in either Contracting State, he shall be deemed to be a resident of the Contracting State of which he is a national;
- d) If the question of residence cannot be determined according to the provisions of subparagraph c), the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions 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, quarry or other place of extraction of natural resources,
- g) A building site or construction or assembly project which exists for more than 12 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 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 and forestry, may be taxed in the Contracting State in which such property is situated.

2. The term “immovable property” shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term 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 landed property apply, usufruct of immovable property as well as rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources. Ships and aircraft 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 owner of such shares or corporate 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 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, 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. Subject to the provisions of paragraph 3, 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. 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.

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

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

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

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

### *Article 8. INTERNATIONAL TRANSPORT*

1. Profits from the operation of ships or 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. 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.

3. Profits from the operation of rail-transport vehicles or road-transport vehicles in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated, unless the enterprise carries on activities referred to in this paragraph in the other Contracting State

through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the provisions of article 7 shall apply.

4. The provisions of paragraphs 1 and 3 shall likewise apply to:

- a) Profits from the operation, in international traffic, of ships, aircraft, rail- or road-transport vehicles leased;
- b) Profits from the operation in international traffic of
  - 1) Containers in sea-, rail-, road- and air-transport,
  - 2) Lighters operated in the lighters-aboard-ship system, or
  - 3) Other equipment related to transports by ships, aircraft or rail- and road-transport vehicles,irrespective of whether such equipment is owned or leased by the enterprise;
- c) Profits from the participation in a pool, a joint business or in an international operating agency.

#### *Article 9. ASSOCIATED ENTERPRISES*

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 these conditions have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

#### *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:

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

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 subjected 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 14, 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 the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

#### *Article 11. INTEREST*

1. Interest arising in a 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 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.

3. The provisions of paragraph 1 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 the 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 14, as the case may be, shall apply.

4. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this 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, royalties of the kind referred to in sub-paragraph *b*) of paragraph 3 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 10 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

- a) Any copyright of literary, artistic or scientific work including cinematograph films, and films or tapes for television or radio broadcasting;
- b) 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.

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 14, 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, 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 between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this 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 22 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. INDEPENDENT PERSONAL SERVICES*

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

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

#### *Article 15. DEPENDENT PERSONAL SERVICES*

1. Subject to the provisions of articles 16, 18 and 19, 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, aircraft, rail- or road-transport vehicle in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

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

Director's 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 17. ARTISTES AND ATHLETES*

1. Notwithstanding the provisions of articles 14 and 15, income derived by 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, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. Contrary to the provisions of paragraph 1, income derived from the kinds of activities defined in paragraph 1 by persons performing the activities on the basis

of a cultural exchange approved by both Contracting States, shall be taxed in the Contracting State of which they are residents.

#### *Article 18. 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 19. GOVERNMENT SERVICE*

1. *a)* Remuneration, other than pension, paid by a Contracting State or a public community or a local authority thereof to any individual in respect of services rendered to that State or public community 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:

- 1) Is a national of that State; or
- 2) 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 a local authority thereof to any individual in respect of services rendered to that State or public community or local authority thereof shall be taxable only in that State.

*b)* However, such pensions 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 15, 16 and 18 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 a local authority thereof.

#### *Article 20. 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 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 21. INCOME NOT EXPRESSLY MENTIONED*

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing articles of this Convention shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply if the recipient of the income, being a resident of a Contracting State, carries on business in the other Contracting State 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 income is paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of article 7 or article 14, as the case may be, shall apply.

#### *Article 22. 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 used 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, aircraft, rail- or road-transport vehicles operated in international traffic and movable property pertaining to the operation of such ships, aircraft and vehicles, 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 23. METHODS FOR ELIMINATION OF DOUBLE TAXATION*

1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall, where the provisions of paragraph 2 are not applicable, allow:

- a) As a deduction from the taxes on income of that person, an amount equal to the taxes on income paid in that other Contracting State;
- b) As a deduction from the tax on capital of that person, an amount equal to the taxes on capital paid in that other Contracting State.

The deduction in either case shall not, however, exceed that part of the taxes 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 the capital which may be taxed in the other Contracting State.

2. Notwithstanding the provisions of paragraph 1, dividends paid by a company which is a resident of Poland 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.

#### *Article 24. NON-DISCRIMINATION*

1. The nationals of a Contracting State, whether or not they are residents of one of the Contracting States, 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. Except where the provisions of article 9, paragraph 4 of article 11, or paragraph 6 of article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same condition as if they had been paid to a resident of the first-mentioned State.

Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible as if they had been contracted to a resident of the first-mentioned State.

4. 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.

5. The term "taxation" as used in this Article means taxes of every kind and description, except for the Polish residence-registration fees and Polish fees for the permit for opening an enterprise.

6. It is certified herewith that the diversified collection of taxes on income, profit and capital, which is established in Poland to the socialist enterprises, shall not affect the provisions of this article.

#### *Article 25. 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 or, if his case comes under paragraph 1 of article 24, to that of the Contracting State of which he is a national. This case must be presented within three years from the first notification of the action giving rise to taxation not in accordance with the Convention.

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. Any agreement reached shall be implemented notwithstanding any time limits in the national laws of the Contracting States.

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.

5. The competent authorities shall establish, through a separate mutual agreement, methods of the application of this Convention and in particular the formalities which should be fulfilled by residents of a Contracting State in order to be granted in the other Contracting State tax exemptions or tax reductions of the income mentioned in articles 10, 11 and 12 and derived in that other State.

#### Article 26. 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 or of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is not contrary to this Convention. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of the Convention. Such persons or authorities shall use the information only for such purposes. These persons or authorities may disclose the information in public court proceedings or in judicial decisions.

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 and 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 27. 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 28. TERRITORIAL EXTENSION

1. This Convention may be extended, either in its entirety or with any necessary modifications, to the County of Åland<sup>1</sup> 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

<sup>1</sup> The Contracting Parties have agreed, by an exchange of diplomatic notes on 21 March 1979, that the Convention shall, in its entirety, be extended to the County of Åland as regards also the communal tax and that the extension will enter into force on the same date as the Convention itself. (Information provided by the Government of Finland.)

between the Contracting States in notes to be exchanged through diplomatic channels.

2. Unless otherwise agreed by both Contracting States, the termination of the Convention by one of them under article 30 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 29. ENTRY INTO FORCE*

1. The Governments of the Contracting States shall notify to each other that the constitutional requirements, including ratification, 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 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 Convention enters into force;
- 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 Convention enters into force.

#### *Article 30. TERMINATION*

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate 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 five 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.

DONE in duplicate at Helsinki, this 26th day of October 1977, in the English language.

On behalf of the Government of the Republic of Finland:

ESKO REKOLA

On behalf of the Government of the Polish  
People's Republic:

HENRYK KISIEL