

No. 20964

**FINLAND
and
HUNGARY**

Convention for the avoidance of double taxation with respect to taxes on income and on capital (with protocol). Signed at Budapest on 25 October 1978

Authentic text: English.

Registered by Finland on 25 March 1982.

**FINLANDE
et
HONGRIE**

Convention tendant à éviter la double imposition en matière d'impôts sur le revenu et d'impôts sur la fortune (avec protocole). Signée à Budapest le 25 octobre 1978

Texte authentique : anglais.

Enregistrée par la Finlande le 25 mars 1982.

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE REPUBLIC OF FINLAND AND THE GOVERNMENT OF THE HUNGARIAN PEOPLE'S REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

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

Mindful of the principles set forth in the Final Act of the Conference on Security and Cooperation in Europe and desiring to conclude a Convention for the avoidance of double taxation 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 Finland:

- i) The State income and capital tax (*tulo- ja varallisuusvero*);
- ii) The communal tax (*kunnallisvero*);
- iii) The church tax (*kirkollisvero*);
- iv) The sailors' tax (*merimiesvero*); and
- v) The tax withheld at source from non-residents' income (*lähdevero*) (hereinafter referred to as "Finnish tax");

b) In the Hungarian People's Republic:

- i) The income taxes (*a jövedelemadók*);
- ii) The profit taxes (*a nyereségadók*);
- iii) The enterprises' special tax (*a vállalati különadó*);
- iv) The house tax (*a házáadó*);
- v) The tax on house values (*a házáérték adó*);
- vi) The ground tax (*a telekadó*);
- vii) The contribution to communal development (*a községefejlesztési hozzájárulás*);

¹ Came into force on 24 July 1981, i.e., 60 days after the date of the notifications by which the Parties informed each other (on 25 May 1981) of the completion of their constitutional requirements, in accordance with article 28 (2).

viii) The levy on dividends and profit distributions of commercial companies (*a kereskedelmi társaságok osztalék és nyereség kifizetései utáni illeték*);

(hereinafter referred to as “Hungarian tax”).

4. The Convention shall apply also 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 each other of any significant changes which have been made in their respective taxation laws.

Article 3. GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:

a) 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, in accordance with international law and under the laws of Finland, 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;

b) The term “Hungarian People’s Republic”, when used in a geographical sense, means the territory of the Hungarian People’s Republic;

c) The terms “a Contracting State” and “the other Contracting State” mean Finland or the Hungarian People’s Republic, as the context requires;

d) The term “person” comprises an individual, a company and any other body of persons;

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 any individual possessing a nationality of a Contracting State, and 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, aircraft 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 road-transport vehicle is operated solely between places in the other Contracting State;

i) The term “competent authority” means:

i) In Finland, the Ministry of Finance or its authorised representative;

ii) In the Hungarian People’s Republic, the Minister of Finance or his authorised representative.

2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

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. An undivided estate of a deceased person 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 preceding sentence or the provisions of paragraph 2. However, this term does not

include any person who is liable to taxation in that Contracting State in respect only of income from sources in that State of capital situated therein.

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 in which he has his 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 in accordance with the provisions of Article 25.

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.

Article 5. PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term “permanent establishment” means a fixed place of business or industrial activities through which these activities of the enterprise are wholly or partly carried on.

2. The term “permanent establishment” includes especially:

- a) A place of management;
- b) A branch;
- c) An office;
- d) A factory;
- e) A workshop; and
- f) A mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than 12 months.

4. Notwithstanding the preceding provisions of this Article, 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 or industrial activities solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- e) The maintenance of a fixed place of business or industrial activities solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

- f) An installation project carried on by an enterprise of a Contracting State in connection with the delivery of machinery or equipment from that State to the other Contracting State;
- g) The maintenance of a fixed place of business or industrial activities solely for any combination of activities mentioned in sub-paragraphs *a*) to *f*), provided that the overall activity of the fixed place of business or industrial activities resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person—other than an agent of an independent status to whom paragraph 6 applies—is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

7. 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 landed property apply, usufruct of immovable property and rights to variable [or] fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources.

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

3. 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 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

The provisions of paragraph 4 shall likewise apply to the income from a right of enjoyment referred to in that paragraph of an enterprise and to income from such right of enjoyment used for the performance of independent personal 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 determining 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. 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, or of the mere delivery to that permanent establishment of goods or merchandise for its use.

5. 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.

6. 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 ship 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 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 paragraph 1 shall also apply to profits derived from the participation in a pool, a joint venture or an international operating agency.

5. The provisions of paragraphs 1, 3 and 4 shall also apply to auxiliary activities directly connected with the operation of ships, aircraft or road-transport vehicles in international traffic.

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 those 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 also 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) 15 per cent of the gross amount of the dividends in all other cases.

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 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 independent personal 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.

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 independent personal 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-paragraphs *b*) and *c*) 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 5 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

- a) For the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, and films or tapes for television or radio broadcasting;
- b) 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;
- c) 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 independent personal 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 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 [that] 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, may be taxed in the Contracting State in which such property is situated.
2. Gains from the alienation of shares or other corporate rights referred to in paragraph 4 of Article 6 may be taxed in the Contracting State in which the immovable property owned by the company is situated.
3. 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 Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.
4. Gains from the alienation of ships, aircraft or road-transport vehicles operated in international traffic or movable property pertaining to the operation of such ships, aircraft or vehicles shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
5. Gains from the alienation of any property other than that referred to in the preceding paragraphs 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 activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other Contracting State but only so much of it as is attributable to that fixed base.
2. The term “professional services” includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15. DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19 and 20, 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 16. 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 any other 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 a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the 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, if that person is directly or indirectly controlled by the entertainer or athlete.

3. Notwithstanding the provisions of paragraph 1, income derived by a resident of a Contracting State from activities referred to in paragraph 1 and exercised in the other Contracting State under a cultural agreement or arrangement between the Contracting States, shall not be taxed in that other State.

Article 18. PENSIONS

1. Subject to the provisions of paragraph 2 of this Article or 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.

2. Subject to the provisions of paragraph 2 of Article 19, pensions and other payments made under the social security legislation of a Contracting State shall be taxable only in that State.

Article 19. GOVERNMENT SERVICE

1. a) Remuneration, other than a 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 community or local authority thereof shall be taxable only in that State.

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

- 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 a local authority thereof to any individual in respect of services rendered to that State or community or local authority thereof shall be taxable only in that State.

b) However, such pension shall be taxable only in the Contracting State of which the recipient is a resident if he is a national 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 or industrial activities 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 or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments are made to him from sources outside that State. Income derived by such a student from a scholarship held by him for the purpose of his full-time education at a university or other institution for higher education, or by such an apprentice for his training shall be exempt from tax on that income in the Contracting State which he is visiting.

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 or was immediately before visiting the other Contracting State a resident of the first-mentioned State and 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, shall not be taxed in that other State in respect of remuneration for services rendered in that State, provided that the services are in connection with his studies or training and the remuneration constitutes earnings necessary for his maintenance.

Article 21. OTHER INCOME

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 independent personal 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, may be taxed in the Contracting State in which such property is situated.

2. Capital represented by shares or other corporate rights referred to in paragraph 4 of Article 6 may be taxed in the Contracting State in which the immovable property owned by the company is situated.

3. Capital represented by 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 by 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 independent personal services, may be taxed in that other State.

4. Capital represented by ships, aircraft and 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.

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

Article 23. ELIMINATION OF DOUBLE TAXATION

1. In Finland double taxation shall be eliminated as follows:

a) Where a resident of Finland derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the Hungarian People's Republic, Finland shall allow:

- i) As a deduction from the taxes on income of that person, an amount equal to the taxes on income paid in the Hungarian People's Republic,
- ii) As a deduction from the tax on capital of that person, an amount equal to the taxes on capital paid in the Hungarian People's Republic.

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 Hungarian People's Republic.

b) Dividends paid by a company which is a resident of the Hungarian People's Republic 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.

2. In the Hungarian People's Republic double taxation shall be eliminated as follows:

a) Where a resident of the Hungarian People's Republic derives income or owns capital which, in accordance with the provisions of this Convention may be taxed in Finland, the Hungarian People's Republic shall, subject to the provisions of sub-paragraphs b) and c), exempt such income or capital from tax.

b) Where a resident of the Hungarian People's Republic derives items of income which, in accordance with the provisions of Articles 10 and 12, may be taxed in Finland, the Hungarian People's Republic shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Finland. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given which is attributable to such items of income derived from Finland.

c) Where in accordance with any provision of the Convention income derived or capital owned by a resident of the Hungarian People's Republic is exempt from tax in the Hungarian People's Republic, the Hungarian People's Republic may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

Article 24. NON-DISCRIMINATION

1. 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. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

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 conditions 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 under the same conditions 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 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 provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 25. MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law 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. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of 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 a satisfactory 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 which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law 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.

Article 26. EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions 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 the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret 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 covered by the Convention. Such persons or authorities shall use the information only for such purposes. They 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 a Contracting State 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 information which is 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. MEMBERS OF DIPLOMATIC OR CONSULAR MISSIONS

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

Article 28. 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 sixty days after the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect:

- a) In respect of taxes withheld at source, to amounts of income 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 such 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 29. TERMINATION

This Convention shall remain in force until terminated by the Government of a Contracting State. Either Government 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:

- a) In respect of taxes withheld at source, to amounts of income 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 such 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 Budapest this 25th day of October 1978, in the English language.

For the Government of the Republic of Finland:

PAUL PAAVELA

For the Government of the Hungarian People's Republic:

FALUVÉGI LAJOS

PROTOCOL

At the signing today of the Convention between the Government of Finland and the Government of the Hungarian People's Republic for the avoidance of double taxation with respect to taxes on income and on capital the undersigned have agreed upon the following provisions which shall form an integral part of the Convention:

1. *Ad Article 2, paragraph 3*

The existing Hungarian income taxes (*a jövedelemadók*) covered by sub-paragraph *b*) (i) of paragraph 3 of Article 2 of the Convention are:

- a*) The general income tax (*az általános jövedelemadó*);
- b*) The income tax of those practising intellectual activity (*a szellemi tevékenységet folytatók jövedelemadója*); and
- c*) The income tax on household and auxiliary farms (*a háztáji és kisegítő gazdaságok jövedelemadója*).

The existing Hungarian profit taxes (*a nyereségadók*) covered by sub-paragraph *b*) (ii) of paragraph 3 of Article 2 of the Convention are:

- a*) The profit tax (*a nyereségadó*);
- b*) The profit tax of economic associations with foreign participation (*a külföldi részvétellel működő gazdasági társulások nyereségadója*);
- c*) The profit tax of State enterprises (*az állami vállalatok nyereségadója*); and
- d*) The taxes of foreigners' commercial and other business agencies (*a külföldiek kereskedelmi és egyéb, üzleti jellegű képviselőiténak adója*).

2. *Ad Article 5, paragraph 3*

Notwithstanding the provisions of paragraph 3 of Article 5 of the Convention, the competent authorities of the Contracting States may, by mutual agreement, decide in each case that a project on erecting a substantial complete project for production, e.g. a power plant or paper mill, shall not constitute a permanent establishment even when it lasts more than 12 months. The period of time referred to in the preceding sentence shall in no case, however, exceed 24 months.

3. *Ad Article 8, paragraph 1*

Profits from the operation of ships or aircraft in international traffic shall be deemed to include, i.e., the sale of passage tickets.

4. *Ad Article 10, paragraph 2, sub-paragraph a)*

Economic associations with foreign participation can be established in the Hungarian People's Republic also in the form of unlimited liability partnerships. Where such an association is established in that form, the provisions of Article 10 shall be applied correspondingly to the dividends paid by the association.

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

DONE in duplicate at Budapest this 25th day of October 1978, in the English language.

For the Government of the Republic of Finland:
PAUL PAAVELA

For the Government of the Hungarian People's Republic:
FALUVÉGI LAJOS