

No. 21056

**FINLAND
and
PHILIPPINES**

**Convention for the avoidance of double taxation and the
prevention of fiscal evasion with respect to taxes on
income. Signed at Manila on 13 October 1978**

Authentic text: English.

Registered by Finland on 17 May 1982.

**FINLANDE
et
PHILIPPINES**

**Convention tendant à éviter la double imposition et à
prévenir l'évasion fiscale en matière d'impôts sur le
revenu. Signée à Manille le 13 octobre 1978**

Texte authentique : anglais.

Enregistrée par la Finlande le 17 mai 1982.

CONVENTION¹ BETWEEN THE REPUBLIC OF FINLAND AND
THE REPUBLIC OF THE PHILIPPINES FOR THE AVOIDANCE
OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the Republic of Finland and the Government of the Republic of the Philippines,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

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 imposed on behalf of each Contracting State, irrespective of the manner in which they are levied.

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

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

(a) In Finland:

- (i) The state income tax;
- (ii) The sailors' tax; and
- (iii) The tax withheld at source from non-residents' income; (hereinafter referred to as "Finnish tax");

(b) In the Philippines: the income taxes imposed by the Government of the Republic of the Philippines;

(hereinafter referred to as the "Philippine tax").

4. The Convention shall apply also to any identical or substantially similar taxes on income 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 any significant 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 "Finland" means the Republic of Finland and, when used in a geographical sense, means the territory of the Republic of Finland, and any

¹ Came into force on 1 October 1981, i.e., 30 days after the date of the latter of the notifications by which the Contracting States informed each other (on 1 September 1981) of the completion of the required constitutional procedures, in accordance with article 27 (2).

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;

(b) The term “Philippines” means the Republic of the Philippines and when used in a geographical sense means the national territory comprising the Republic of the Philippines;

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

(d) The term “person” includes an individual, an estate, a trust, 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 “tax” means the Finnish tax or the Philippine tax as the context requires;

(h) The term “national” means:

(i) In respect of Finland, any individual possessing the nationality of Finland, and any legal person, partnership and association deriving its status as such from the laws in force in Finland;

(ii) In respect of the Philippines, any individual possessing the citizenship of the Philippines, and any legal person, partnership and association deriving its status as such from the laws of the Philippines;

(i) The term “international traffic” means any transport by a ship or aircraft operated by an enterprise which is a resident of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(j) The term “competent authority” means:

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

(ii) In the Philippines, the Secretary of Finance or his authorized representative.

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

Notwithstanding the preceding sentence, if the meaning of such term under the laws of one of the Contracting States is different from the meaning of the term under the laws of the other Contracting State, or if the meaning of such term is not readily determinable under the laws of one of the Contracting States, the competent authorities of the Contracting States may, in order to prevent double taxation or to further any purpose of this Convention, establish a common meaning of the term for the purpose of this Convention.

Article 4. FISCAL DOMICILE

1. For the purpose 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, for the purpose of taxation, 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 or 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 State in which he has a permanent home available to him. If he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closest (centre of vital interests);
- (b) If the 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 State, he shall be deemed to be a resident of the State in which he has an habitual abode;
- (c) If he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
- (d) If he is a national of both States or of neither of them, the competent authorities of the Contracting States, shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1, a person other than an individual is a resident of both Contracting States, then this case shall be determined in accordance with the following rules:

- (a) It shall be deemed to be a resident of the State of which it is a national;
- (b) If it is a national of neither of the States, then it shall be deemed to be a resident of the State in which its place of effective management is situated;
- (c) If the place of effective management cannot be determined, then the competent authorities of the Contracting States shall by mutual agreement endeavour to settle the question, and to determine the mode of application of the Convention to such person.

Article 5. PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through 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 or construction site or installation project or supervisory activities in connection therewith, where such site, project or activities continue for a period more than 183 days;
- (h) Premises used as a sales outlet;
- (i) A warehouse, in relation to a person providing storage facilities for others;
- (j) The furnishing or services, including consultancy services, by a resident of one of the Contracting States through employees or other personnel, provided the activities of that nature continue (for the same or a connected project) within the other Contracting State for a period or periods aggregating more than 183 days.

3. The term "permanent establishment" shall not be deemed 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 6 applies) shall be deemed to be a permanent establishment in the first-mentioned State if:

- (a) He has and habitually exercises in that State an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for that enterprise; or
- (b) He has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

5. An insurance enterprise of a Contracting State shall, except in regard to reinsurance, be deemed to have a permanent establishment in the other State if it collects premiums in the territory of that State or insures risks situated therein through an employee or through a representative who is not an agent of an independent status within the meaning of paragraph 6.

6. 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.

However, when the activities of such an agent are devoted wholly or almost wholly on behalf of the enterprise, he shall not be considered as agent of an independent status within the meaning of this paragraph if it is shown that the transaction between the agent and the enterprise were not made under arms-length conditions.

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 for 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.

The provisions of this paragraph 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 professional services.

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 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:

(a) That permanent establishment; or

(b) Sales within that other Contracting State of goods or merchandise of the same or similar kind as those sold, or from other business activities of the same or similar kind as those effected, through 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 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.

However, insofar 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 this paragraph 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.

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. Notwithstanding the provisions of paragraph 3, no deduction shall be allowed in respect of amounts paid or charged (other than reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of:

- (a) Royalties, fees or other similar payments in return for the use of patents or others rights;
- (b) Commission for specific services performed or for management; and
- (c) Interest on money lent to the permanent establishment, except in the case of banking institution.

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. SHIPPING AND AIR TRANSPORT

1. Profits derived by an enterprise of a Contracting State from the operation in international traffic of ships or aircraft shall be taxable only in the Contracting State in which the enterprise is a resident.

2. Notwithstanding the provisions of paragraph 1, profits from sources within a Contracting State derived by an enterprise of the other Contracting State

from the operation of ships or aircraft in international traffic may be taxed in the first-mentioned State but the tax so charged shall not exceed the lesser of

- (a) One and one half per cent of the gross revenues derived from sources in that State; and
- (b) The lowest rate of Philippine tax that may be imposed on profits of the same kind derived under similar circumstances by a resident of a third state.

3. The provisions of paragraphs 1 and 2 shall also apply to profits derived from the participation in a pool, a joint business or in an international operating agency.

Article 9. ASSOCIATED ENTERPRISES

1. Where

- (a) An enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- (b) The same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. A Contracting State shall not change the profits of an enterprise in the circumstances referred to in paragraph 1 after the expiry of the time limits provided in its national laws and, in any case, after five years from the end of the year in which the profits which would be subject to such change would have accrued to an enterprise of that State. This paragraph shall not apply in the case of fraud, wilful default or neglect.

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 15 per cent of the gross amount of the dividends, if the recipient is a company (excluding partnership) owning at least 10 per cent of the voting stock of the company paying the dividends.

3. The provisions of paragraphs 1 and 2 in this article shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

4. The term "dividends" as used in this article means income from shares, *jouissance* shares or *jouissance* rights, mining shares, founder's shares or other rights, not being debt-claims, participating in profits, as well as income assim-

ilated to income from shares by the taxation law of the State of which the company making the distribution is a resident.

5. 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 in the other Contracting State of which the company paying the dividends is a resident, business through a permanent establishment situated therein, or performs in that other State professional services from a fixed base situated therein, and the holding by virtue 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.

6. Where a company which is a resident of a Contracting State derived profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company to persons, 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 undistributed profits consist wholly or partly of profits or income arising in such other State.

7. Nothing in this Convention shall be construed as preventing a Contracting State from imposing in accordance with its internal law, a tax apart from the corporate income tax, on remittance of profits by a branch to its head office provided that the tax so imposed shall not exceed 15 per cent of the amount remitted abroad.

Article 11. INTEREST

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

2. However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 15 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. 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 such securities, bonds or debentures, as well as income assimilated to income from money lent by the taxation law of the State in which the income arises, including interest on deferred payment sales. Penalty charges for late payment shall not be regarded as interest for purposes of this article.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, carries on in the other Contracting State in which the interest arises a business 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.

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

6. Where, by reason of a special relationship between the payer and the recipient or between both of them and some other person, the amount of interest paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon 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.

7. Notwithstanding the provisions of paragraph 2,

- (a) Interest arising in a Contracting State and paid in respect of a bond, debenture or other similar obligation of the government of that Contracting State or of a political subdivision or local authority thereof shall, provided that the interest is beneficially owned by a resident of the other Contracting State be taxable only in that other State;
- (b) Interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other Contracting State if it is paid in respect of a loan made, guaranteed or insured, or a credit extended, guaranteed or insured by the Central Bank of the Philippines or the Finnish Export Credit Limited;
- (c) Interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other Contracting State if it is paid in respect of a loan made, guaranteed or insured by such lending institution as is specified and agreed in letters exchanged between the competent authorities of the Contracting States; and
- (d) The Philippine tax on interest arising in the Philippines in respect of public issues of bonds, debentures or similar obligations and paid by a company which is a resident of the Philippines to a resident of Finland shall not exceed 10 per cent of the gross amount of the interest.

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, if such resident is the beneficial owner of the royalties.

2. Such royalties may also be taxed in the Contracting State in which they arise, and according to the law of that State. However, the tax so charged shall not exceed

- (a) 15 per cent of the gross amount of the royalties, where the royalties are paid by an enterprise registered with and engaged in preferred areas of activities, and also royalties in respect of cinematographic films or tapes for television or broadcasting, and royalties for the use of, or the right to use, any copyright of literary, artistic or scientific work; and
- (b) In all other cases, 25 per cent of the gross amount of the royalties.

3. The term “royalties” as used in this article means payments of any kind received as a consideration

- (a) For the use, or the right to use, any copyright of literary, artistic or scientific work;
- (b) For the use, 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 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 State itself, a political subdivision, a local authority, a public community or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of 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, by reason of 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 of a company, the property of which consists principally of immovable property situated in a Contracting State, may be taxed in that State. Gains from the alienation of an interest in a partner-

ship or a trust, the property of which consists principally of immovable property situated in a Contracting State, may be taxed in that State.

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 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 derived by an enterprise of a Contracting State from the alienation of ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.

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

Article 14. PROFESSIONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of a similar character shall be taxable only in that State. However, such income may be taxed in the other Contracting State:

- (a) If he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or
- (b) If his stay in the other Contracting State is for a period or periods aggregating 120 days or more in the calendar year.

2. The term "professional services" includes 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 the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned, and the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and such 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 employment exercised aboard a ship or aircraft operated in interna-

tional traffic by an enterprise of a Contracting State may be taxed in the Contracting State where the enterprise is a resident.

Article 16. DIRECTORS' FEES

1. Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or another similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

2. The remuneration which a person to whom paragraph 1 applies derives from the company in respect of the discharge of day-to-day functions of a managerial or technical nature may be taxed in accordance with the provisions of article 15.

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. The provisions of paragraph 1 shall not apply to income derived from activities performed in a Contracting State by entertainers and athletes if the visit to that Contracting State is substantially supported by public funds of the other Contracting State, including any political subdivision, local authority or statutory body thereof, nor to income derived by entertainers and athletes in respect of such activities performed for a non-profit organization no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof if the organization is certified as qualifying under the provision by the competent authority of the other Contracting State.

4. Notwithstanding the provisions of article 7, where the activities mentioned in paragraph 1 of this article are provided in a Contracting State by an enterprise of the other Contracting State the profits derived from providing these activities by such an enterprise may be taxed in the first-mentioned Contracting State unless the enterprise is substantially supported from the public funds of the other Contracting State, including any political subdivision, local authority or statutory body thereof, in connection with the provisions of such activities, or unless the enterprise is a non-profit organization referred to in paragraph 2.

Article 18. PENSIONS

1. Subject to the provisions of paragraph 1 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.

However, pensions paid out of pension plans of Philippine enterprises not registered under Philippine law may be taxed in the Philippines.

2. Notwithstanding the provisions of paragraph 1, social security pensions paid by a social security instrumentality of a Contracting State shall be taxable only in that Contracting State.

3. The term "pension" means periodic payments made in consideration of past services.

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 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.

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 solely as a student or apprentice 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 and the amount of such remuneration is not in excess of 6,000 Finnish markkas, or its equivalent in Philippine pesos, or such other higher amount as may be agreed in letters exchanged by the competent authorities.

Article 21. OTHER INCOME

1. Items of income of a resident of a Contracting State, where ever arising, not dealt with in the foregoing articles of this Convention shall be taxable only in that State except that, if such income is derived from sources within the other Contracting State it may also be taxed in accordance with the law of that other 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. ELIMINATION OF DOUBLE TAXATION

1. (a) Where a resident of Finland derives income which, in accordance with the provisions of this Convention, may be taxed in the Philippines, Finland shall, where the provisions of sub-paragraph (b) are not applicable, allow as a deduction from the taxes on income of that person, an amount equal to the taxes on income paid in the Philippines. The deduction in either case shall not, however, exceed that part of the taxes on income, as computed before the deduction is given, which is appropriate, as the case may be, to the income which may be taxed in the Philippines.

(b) Notwithstanding the provisions of sub-paragraph (a), dividends paid by a company which is a resident of the Philippines 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.

(c) Notwithstanding any other provision of this Convention, an individual who is a resident of Philippines and under Finnish taxation law with respect to the Finnish taxes referred to in article 2 also is regarded as a resident of Finland may be taxed in Finland. However, Finland shall allow any Philippine tax paid on the income or capital as a deduction from Finnish tax in accordance with the provisions of paragraph 1. The provisions of this paragraph shall apply only to nationals of Finland.

2. In accordance with the provisions and subject to the limitations of the law of the Philippines as it may be amended from time to time without changing general principle hereof, the Philippines shall allow to a citizen or resident of the Philippines as a credit against the Philippine tax the appropriate amount of taxes paid or accrued to Finland. In the case of a Philippine corporation owning more than 50 percent of the voting stock of a Finnish corporation from which it receives dividends in any taxable year, the Philippines shall allow credit for the appropriate amount of taxes paid or accrued to Finland by the Finnish corporation paying such dividends with respect to the profits out of which such dividends.

The appropriate amount of taxes referred to above shall be based upon the amount of tax paid or accrued to Finland, but the credit shall not exceed the limitations (for the purpose of limiting the credit to the Philippine tax on income

from sources within Finland, and on income from sources of outside the Philippines provided by the Philippine law for the taxable year.

For the purpose of applying credit in relation to taxes paid in the Philippines accrued to Finland, the taxes referred to in paragraphs 3 (a) and 4 of article 2 (Taxes covered) shall be considered to be income taxes.

3. Taxes on dividends, interests and royalties which have been relieved or reduced by virtue of the national laws of the Philippines shall be considered as though such tax had been paid and shall be allowed tax credit in Finland in an amount equal to the tax which would have been appropriate to the income concerned if no such relief had been given or no such reduction had been allowed.

4. Nothing in this Convention shall be construed as preventing the Philippines from taxing its citizens, who are residents of Finland, in accordance with its domestic legislation. Taxes paid pursuant to this reservation shall not be credited.

Article 23. NON-DISCRIMINATION

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

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

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

3. Except where the provisions of paragraph 1 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.

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 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 enterprise of the first-mentioned State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of a third State, are or may be subjected.

5. Nothing in this article shall be construed so as to prevent the Philippines from limiting to its nationals the enjoyment of tax incentives granted under:

(a) The following enactments:

—Investment Incentives Act (Republic Act No. 5186);

—Export Incentives Act (Republic Act No. 6135);
—Tourism Incentives Act (Presidential Decree No. 535);
—Agricultural Investments Incentives Act (Presidential Decree No. 1159);
so far as they were in force on, and have not been modified since the date of signature of this Convention, or have been modified only in minor respects so as not to affect their general character; or

(b) Any other enactment of the Philippines adopted in pursuance of its programme of economic development which the competent authorities of the Contracting State agree should be excluded from the provisions of this article, if it has been modified thereafter or has been modified only in minor respects so as not to affect its general character.

6. In this article, the term "taxation" means taxes, which are the subject of this Convention.

Article 24. 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 23, to that of the Contracting State of which he is a national. To be admissible, the said application must be submitted within two years from the first notification of the action which gives 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 which is not in accordance with the Convention.

3. A Contracting State shall not, after five years from the end of the taxable period in which the income concerned has accrued, increase the tax base of a resident of either of the Contracting States by including therein items of income which have also been charged to tax in the other Contracting State. This paragraph shall not apply in the case of fraud, wilful default or neglect.

4. 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. In particular, the competent authorities of the Contracting States may consult together to endeavour to agree:

- (a) To the same attribution of profits to a resident of a Contracting State and its permanent establishment situated in the other Contracting State;
- (b) To the same allocation of income between a resident of a Contracting State and any associated person provided for in article 9.

5. 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.

6. The competent authorities of the Contracting States may consult together for the elimination of double taxation in cases not provided for in the Convention.

Article 25. 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. The exchange of information is not restricted by article 1. 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 or the administrative practice of that or of the other Contracting State;
- (b) To supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) To supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process or information, the disclosure of which would be contrary to public policy (*ordre public*).

Article 26. DIPLOMATIC AND CONSULAR OFFICIALS

1. 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.

2. This Convention shall not apply to International Organizations, to organs or officials thereof and to persons who are members of a diplomatic, consular or permanent mission of a third State, being present in a Contracting State and who are not liable in either Contracting State to the same obligations in relation to tax on their total world income as are residents thereof.

Article 27. ENTRY INTO FORCE

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

2. The Convention shall enter into force thirty days after the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect 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, 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 28. 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 (5) years from the date on which the Convention enters into force. In such event, the Convention shall cease to have effect in both Contracting States:

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

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

DONE in duplicate at Manila this 13th day of October 1978, in the English language.

For the Government
of the Republic of Finland:

OSMO LARES

For the Government
of the Republic of the Philippines:

CESAR VIRATA