

No. 23308

**FINLAND
and
INDIA**

**Convention for the avoidance of double taxation with
respect to taxes on income and on capital. Signed at
Helsinki on 10 June 1983**

Authentic texts: Finnish, Hindi and English.

Registered by Finland on 27 March 1985.

**FINLANDE
et
INDE**

**Convention tendant à éviter la double imposition en matière
d'impôts sur le revenu et sur la fortune. Signée à
Helsinki le 10 juin 1983**

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Enregistrée par la Finlande le 27 mars 1985.

CONVENTION¹ BETWEEN THE REPUBLIC OF FINLAND AND THE REPUBLIC OF INDIA FOR THE AVOIDANCE OF DOUBLE TAX- ATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

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

Desiring to conclude a new 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. The taxes which are the subject of the present Convention are:

(a) In Finland:

- (i) The State income and capital tax;
- (ii) The communal tax;
- (iii) The church tax;
- (iv) The sailors' tax; and
- (v) The tax withheld at source from non-residents' income; (hereinafter referred to as "Finnish tax");

(b) In India:

- (i) The income-tax, including any surcharge thereon;
- (ii) The sur-tax; and
- (iii) The wealth tax; (hereinafter referred to as "Indian tax").

2. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of 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 "person" includes an individual, a company and any other body of persons;

(b) The term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

¹ Came into force on 18 November 1984, i.e., 30 days after the date of the last of the notifications (effected on 19 October 1984) by which the Parties notified each other of the completion of their constitutional requirements, in accordance with article 29 (1) and (2).

(c) 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;

(d) The term “national” means any individual possessing the 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;

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

(f) The term “competent authority” means:

- (i) In Finland, the Ministry of Finance or its authorised representative;
- (ii) In India, the Ministry of Finance (Department of Revenue).

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 laws 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 laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

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 closer (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 it shall be deemed to be a resident of the 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 through which the business of an enterprise is 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;
- (f) A mine, a quarry or any other place of extraction of natural resources;
- (g) A warehouse; and
- (h) Premises used as a sales outlet or for receiving or soliciting orders.

3. The term “permanent establishment” also includes:

- (a) A building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than six months;
- (b) A building site, a construction, assembly or installation project or supervisory activity, being incidental to the sale of machinery or equipment, where such site, project or activity continues for a period not exceeding six months and the charges payable for the project or supervisory activity exceed 10 per cent of the sale price of the machinery or equipment.

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 or display 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 or display;
- (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 of 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 or for scientific research, being activities solely of a preparatory or auxiliary character in the business of the enterprise.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person — other than an agent of an independent status to whom paragraph 7 applies — is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:

- (a) Has and habitually exercises in that State an authority to conclude contracts in the name of 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; or
- (b) 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.

6. Notwithstanding the preceding provisions of this article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.

7. 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. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he shall not be considered an agent of an independent status within the meaning of this paragraph.

8. 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 derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. (a) The term “immovable property” shall, subject to the provisions of subparagraphs (b) and (c), have the meaning which it has under 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 held by the company, the income from the direct use, letting, or use in any other form of such right of 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.

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; (b) sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or (c) other business activities carried on in that other State 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 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, which are allowed under the provisions of the domestic law of the Contracting State in which the permanent establishment is situated. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on money lent to the permanent establishment. Likewise, no account shall be taken, in determining the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on money lent to the head office of the enterprise or any of its other offices.

4. 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 paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this article.

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

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

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

Article 8. AIR TRANSPORT

1. Income derived by an enterprise of a Contracting State from the operation of aircraft in international traffic shall be taxable only in that State.
2. Paragraph 1 shall likewise apply in respect of participations in pools of any kind by enterprises engaged in air transport.
3. For the purposes of this article:
 - (a) Interest on funds connected with the operation of aircraft in international traffic shall be regarded as income from the operation of such aircraft; and
 - (b) The term "operation of aircraft" shall include transportation by air of persons, livestock, goods or mail, carried on by the owners or lessees or charterers of aircraft, including the sale of tickets for such transportation on behalf of other enterprises, the incidental lease of aircraft on a charter basis and any other activity directly connected with such transportation.

Article 9. SHIPPING

1. Income of an enterprise of a Contracting State derived from the other Contracting State from the operation of ships in international traffic may be taxed in that other State, but the tax chargeable in that other State on such income shall be reduced by an amount equal to fifty per cent of such tax.
2. Paragraph 1 shall not apply to profits arising as a result of coastal traffic.

Article 10. 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 11. 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 laws of that State, but the tax so charged shall not exceed:
 - (a) 15 per cent of the gross amount of the dividends if the recipient is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends;
 - (b) 25 per cent of the gross amount of the dividends in all other cases.

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

3. The provisions of sub-paragraph (a) of paragraph 2 would apply in respect of dividends arising out of investments made after the date of signature of this Convention.

4. 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 laws 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 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 case the provisions of article 7 or article 15, as the case may be, shall apply.

6. 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 12. INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in the first-mentioned State, provided, however, the tax so charged shall not exceed 15 per cent of the gross amount of the interest.

2. The provisions of paragraph 1 would apply in respect of interest payable arising out of investments made after the date of signature of this Convention.

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 and debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this article.

4. 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 case the provisions of article 7 or article 15, 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 statutory body, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a

resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the 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 the interest, 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 such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13. ROYALTIES AND FEES FOR TECHNICAL SERVICES

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

2. However, such royalties and fees for technical services may also be taxed in the Contracting State in which they arise and according to the laws of that State; provided that where the royalties or fees for technical services are paid to a resident of the other Contracting State who is the beneficial owner thereof and they are paid in respect of a right or property which is first granted, or under a contract which is signed, after the date of signature of this Convention, the tax so charged shall not exceed 30 per cent of the gross amount of the royalties and fees for technical services.

3. The term "royalties" as used in this article means payments of any kind including rentals received as a consideration for the use of, or the right to use:

- (a) Any patent, trademark, design or model, plan, secret formula or process;
- (b) Industrial, commercial, or scientific equipment or information concerning industrial, commercial or scientific experience;
- (c) Any copyright of literary, artistic or scientific work, cinematograph films and films or tapes for radio or television broadcasting,

but does not include royalties or other amounts paid in the respect of the operation of mines or quarries or of the extraction or removal of natural resources.

4. The term "fees for technical services", as used in this article means payments of any kind to any person, other than payments to an employee of the person making the payments and to any individual for independent personal services mentioned in article 15, in consideration for services of a managerial, technical or consultancy nature, including the provision of services of technical or other personnel.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties or fees for technical services, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties or fees for technical services 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, property or contract in respect of which the royalties or fees for technical services are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of article 7 or article 15, as the case may be, shall apply.

6. Royalties and fees for technical services shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a statutory body, a local authority or a resident of that State. Where, however, the person paying the royalties or fees for technical services, 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 obligation to make the payments was incurred, and such payments are borne by such permanent establishment or fixed base, then such royalties or fees for technical services shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. 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 or fees for technical services exceeds, for whatever reason, the amount which would have been paid in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In such 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 14. CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in paragraph 2 of article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains derived by a resident of a Contracting State from the alienation of shares or other corporate rights may be taxed in the Contracting State in which the company is registered.

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

Article 15. INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character may be taxed in that State. Such income may also be taxed in the other Contracting State if such services are performed in that other State and if:

- (a) He is present in that other State for a period or periods aggregating 90 days or more in the relevant fiscal year, or
- (b) He has a fixed base regularly available to him in that other State for the purpose of performing his activities,

but in each case only so much of the income as is attributable to those services.

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

Article 16. DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of articles 17, 19, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- (a) The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned, and
- (b) The remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- (c) The remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

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

Article 17. DIRECTORS' FEES

Directors' fees and other 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 18. ARTISTES AND ATHLETES

1. Notwithstanding the provisions of articles 15 and 16, 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, 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply if the visit to a Contracting State of the entertainer or the athlete is directly or indirectly supported, wholly or substantially, from the public funds of the other Contracting State, including a political subdivision, a statutory body or a local authority of that other State.

Article 19. PENSIONS AND SOCIAL SECURITY PAYMENTS

Subject to the provisions of paragraph 2 of article 20, pensions and other similar remuneration in consideration of past employment paid by a resident of, and pen-

sions and other payments made under a public scheme which is part of the social security system of, a Contracting State to a resident of the other Contracting State shall be taxable only in the first-mentioned State.

Article 20. GOVERNMENT SERVICE

1. (a) Remuneration, other than a pension, paid by a Contracting State or a statutory body or a local authority thereof to an individual in respect of services rendered to that State or body or authority shall be taxable only in that State.

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

- (i) Is a national of that State; or
- (ii) Did not become a resident of that State solely for the purpose of rendering the services.

2. (a) Any pension paid by, or out of funds created by, a Contracting State or a statutory body or a local authority thereof to an individual in respect of services rendered to that State or body or authority shall be taxable only in that State.

(b) However, such pension shall be taxable only in the Contracting State of which the individual is a resident if he is a national of that State.

3. The provisions of articles 16, 17 and 19 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a statutory body or a local authority thereof.

Article 21. STUDENTS AND APPRENTICES

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 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 arise 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 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. If he is present in that other State for a period or periods aggregating 183 days or more in the calendar year concerned, he shall be entitled to the same exemptions, reliefs or reductions in respect of taxes as are granted to residents of that State.

Article 22. OTHER INCOME

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 except that, if such income is derived from sources in the other Contracting State it may also be taxed in accordance with the law of that other State.

Article 23. CAPITAL

1. Capital represented by immovable property referred to in paragraph 2 of article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.

2. Capital represented by shares or other corporate rights referred to in paragraph 4 of article 6 and owned by a resident of a Contracting State may be taxed in the Contracting State in which the immovable property held 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 and aircraft operated in international traffic, and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

5. Elements of capital of a resident of a Contracting State not dealt with in the foregoing paragraphs of this article shall be taxable only in that State except that, if such elements are situated in the other Contracting State they may also be taxed in accordance with the law of that other State.

Article 24. 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 India, Finland shall, subject to the provisions of sub-paragraph (b), allow:

(i) As a deduction from the tax on income of that person, an amount equal to the tax on income paid in India,

(ii) As a deduction from the tax on capital of that person, an amount equal to the tax on capital paid in India.

Such deduction in either case shall not, however, exceed that part of the tax on income or on capital, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in India.

(b) Dividends paid by a company which is a resident of India 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 India 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 Indian tax paid on the income or the capital as a deduction from Finnish tax in accordance with the provisions of sub-paragraph (a). The provisions of this sub-paragraph shall apply only to nationals of Finland.

(d) Where in accordance with any provisions of the Convention income derived or capital owned by a resident of Finland is exempt from tax in Finland, Finland 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.

2. For the purposes of paragraph 1, taxes paid in India shall be deemed to include any amount which would have been payable as Indian tax but for a deduction allowed in computing the taxable income or an exemption or reduction of tax granted for that year under:

(a) Sections 10(4), 10(4A), 10(6)(viiia), 10(15)(iv), 32A, 33A, 35B, 35C, 80HH, 80I, 80J and 80K of the Income-tax Act, 1961 (No. 43 of 1961), 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 provision which may subsequently be enacted granting an exemption or reduction from tax which is agreed by the competent authorities of the two Contracting States.

3. In India double taxation shall be eliminated as follows:

(a) The amount of Finnish tax payable, under the laws of Finland and in accordance with the provisions of this Convention, whether directly or by deduction, by a resident of India, in respect of income which has been subjected to tax both in India and Finland shall be allowed as a credit against the Indian tax payable in respect of such income but in an amount not exceeding that proportion of Indian tax which such income bears to the entire income chargeable to Indian tax.

(b) For the purposes of the credit referred to in sub-paragraph (a) above, where the resident of India is a company by which surtax is payable, the credit to be allowed against the Indian tax shall be allowed in the first instance against the income-tax payable by the company in India and, as to the balance, if any, against the surtax payable by it in India.

Provided that income which in accordance with the provisions of this Convention is not to be subjected to tax may be taken into account in calculating the rate of tax to be imposed.

Article 25. NON-DISCRIMINATION

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

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities in the same circumstances or under the same conditions. This provision shall not be construed as preventing a Contracting State from charging the profits of a permanent establishment which an enterprise of the other Contracting State has in the first-mentioned State at a rate of tax which is higher than that imposed on the profits of a similar enterprise of the first-mentioned Contracting State, nor as being in conflict with the provisions of paragraph 3 of article 7.

3. Nothing contained in this article shall be construed as obliging a Contracting State to grant to individuals not resident in that State any personal allowances,

reliefs and reductions for taxation purposes which are by law available only to individuals who are so resident.

4. Nothing contained in this article shall be construed as obliging a Contracting State to compute the shipping profits in the same manner as is done in the case of enterprises of that State.

5. 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 enterprises of the first-mentioned State are or may be subjected.

6. The provisions of this article shall apply to all taxes which are covered by this Convention.

Article 26. 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 25, 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.

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. In particular, they may consult together for the purpose of reaching an agreement on the allocation of income in cases referred to in article 10. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. In the event the competent authorities reach an agreement referred to in paragraphs 2 and 3, taxes shall be imposed on such income, and refund or credit of taxes shall be allowed by the Contracting States in accordance with such agreement. It shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

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.

Article 27. EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information (including documents) as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes

covered by the Convention insofar as the taxation thereunder is not contrary to the Convention or for the prevention of fraud or evasion of taxes. 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 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 28. DIPLOMATIC AGENTS AND CONSULAR OFFICERS

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

Article 29. ENTRY INTO FORCE

1. The Governments of the Contracting States shall notify 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:

- (a) In Finland:
 - (i) In respect of taxes withheld at source, to income derived on or after 1 January in the calendar year next following the year in which the Convention enters into force;
 - (ii) In respect of other taxes on income, and taxes on capital, to taxes chargeable for any taxable year beginning on or after 1 January in the calendar year next following the year in which the Convention enters into force;
- (b) In India, in respect of taxes for assessment years beginning on or after 1 April of the calendar year next following the year in which the Convention enters into force.

3. The Agreement between Finland and India for the avoidance of double taxation of income signed at New Delhi on 23 June 1961,¹ as amended by exchange of notes on 16 August 1979, shall cease to have effect at the time that the provisions of this Convention shall be effective in accordance with the provisions of paragraph 2.

¹ United Nations, *Treaty Series*, vol. 421, p. 49.

Article 30. TERMINATION

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

(a) In Finland:

(i) In respect of taxes withheld at source, to income derived on or after 1 January in the calendar year next following the year in which the notice is given;

(ii) In respect of other taxes on income, and taxes on capital, to taxes chargeable for any taxable year beginning on or after 1 January in the calendar year next following the year in which the notice is given;

(b) In India, in respect of taxes for any assessment year beginning on or after 1 April of the second calendar year following that in which the notice is given.

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

DONE in duplicate at Helsinki on this 10th day of June, 1983, in the Finnish, Hindi and English languages, all the texts being equally authentic, except that in the case of divergence of interpretation the English text shall prevail.

For the Government of the Republic of Finland:

MATTI TUOVINEN

For the Government of the Republic of India:

M. RASGOTRA
