

No. 24406

**FINLAND
and
THAILAND**

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). Signed at Bangkok on 25 April 1985

Authentic text: English.

Registered by Finland on 11 November 1986.

**FINLANDE
et
THAÏLANDE**

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole). Signée à Bangkok le 25 avril 1985

Texte authentique : anglais.

Enregistrée par la Finlande le 11 novembre 1986.

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE REPUBLIC OF FINLAND AND THE GOVERNMENT OF THE KINGDOM OF THAILAND 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 Kingdom of Thailand,

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 a Contracting State or of its local authorities, 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, as well as taxes on capital appreciation.

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

(a) In Finland:

- (i) The state income 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 Thailand:

- (i) The income tax; and
- (ii) The petroleum income tax; (hereinafter referred to as "Thai 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 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.

¹ Came into force on 28 March 1986, i.e., 30 days after the date of the last of the notifications (effected on 26 February 1986) by which the Contracting Parties had informed each other of the completion of the constitutional requirements, in accordance with article 27 (2).

Article 3. GENERAL DEFINITIONS

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

a) The term "Finland" means the Republic of Finland and, when used in a geographical sense, means the territory of the Republic of Finland, and any area adjacent to the territorial waters of the Republic of Finland within which, 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 "Thailand" means the Kingdom of Thailand and includes any area adjacent to the territorial waters of the Kingdom of Thailand which by Thai legislation, and in accordance with international law, has been or may hereafter be designated as an area within which the rights of the Kingdom of Thailand with respect to the sea bed and sub-soil and their natural resources may be exercised;

c) The terms "a Contracting State" and "the other Contracting State" mean Finland or Thailand, as the context requires;

d) The term "person" includes an individual, an estate, a company and any other body of persons which is treated as an entity for tax purposes;

e) The term "company" means any body corporate or any entity which is treated as a body corporate under the tax laws of the respective Contracting States;

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 Finnish tax or Thai tax, as the context requires;

h) The term "national" means:

(i) Any individual possessing the nationality of a Contracting State;

(ii) Any legal person, partnership, association and any other entity deriving its status as such from the laws in force in a Contracting State;

i) The term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except where 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 authorised representative;

(ii) In Thailand, the Minister of Finance or his authorised representative.

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

Article 4. RESIDENCE

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 incorporation or any other criterion of a similar nature. An undivided estate of a deceased person shall, for the purposes of taxation in Finland, 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, the term "resident of a Contracting

State” does not include any person who is liable to tax in that State in respect only of income from sources in that State.

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, it shall be deemed to be a resident of the Contracting State in which it is incorporated or under the law of the Contracting State of which it derives its legal status. If a person under this criterion still is a resident of both Contracting States, then the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement.

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 farm or plantation;
- g) A mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- h) Premises used as a sales outlet;
- i) A warehouse, in relation to a person providing storage facilities for others.

3. The term “permanent establishment” likewise encompasses:

- a) A building site, a construction, an assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period or periods aggregating more than 183 days;
- b) The furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than 183 days.

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 carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- f) The maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs *a*) to *e*), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. A person (other than a broker, general commission agent or any other agent of an independent status to whom paragraph 6 applies) acting in a Contracting State on behalf of an enterprise of the other Contracting State shall be deemed to be a permanent establishment of that enterprise in the first-mentioned State, if:

- a) He has, and habitually exercises in the first-mentioned State, an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to activities mentioned in sub-paragraphs *a*) to *e*) of paragraph 4, for the enterprise;
- b) He maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders or makes deliveries on behalf of the enterprise; or
- c) He habitually secures orders in the first-mentioned State wholly or almost wholly for the enterprise or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it.

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 Contracting 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. For this purpose, an agent shall not be considered to be an agent of an independent status if it carries on in that other State an activity described in paragraph 5 substantially for the enterprise or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it.

7. Notwithstanding the preceding provisions of this Article, 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.

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 Contracting State (whether through a perma-

nent 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 to enjoyment may be taxed in the Contracting State in which the immovable property is situated.

5. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

6. The provisions of paragraph 4 shall also apply to the income from a right of enjoyment referred to in that paragraph of an enterprise and to income from such right of enjoyment used for the performance of independent personal services.

Article 7. BUSINESS PROFITS

1. The income or 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 income or profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that Permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the income or profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent

establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. 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 a certain percentage of the gross receipts of the enterprise or 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 income or 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 income or 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. 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. Income derived by an enterprise of a Contracting State from the operation of ships in international traffic may be taxed in the other Contracting State, but the tax imposed in that other State shall be reduced by an amount equal to 50 per cent thereof.

3. The provisions of paragraphs 1 and 2 shall likewise apply in respect of participations in pools, a joint business or an international operating agency of any kind by enterprises engaged in shipping or air transport.

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. Where a Contracting State includes in the profits of an enterprise of that State—and taxes accordingly—profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are by the first-mentioned State claimed to that enterprise to be profits which would have ac-

crued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of tax charged therein on those profits, where that other State considers the adjustment justified. In determining such adjustment, due regard shall be had to the other provisions of this Convention.

3. 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.

4. The provisions of paragraphs 2 and 3 shall not apply in the case of fraud, wilful default or neglect, including a case where an enterprise has not filed a return within the time limit specified in the laws of the State of which it is a resident.

Article 10. DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State, but, if the recipient of the dividends is a company, excluding partnership, which holds directly at least 25 per cent of the capital of the former company, the tax so charged shall not exceed:

- a) 15 per cent of the gross amount of the dividends if the company paying the dividend engages in an industrial undertaking;
- b) 20 per cent of the gross amount of the dividends in other cases.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

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

3. a) 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.

b) The term "industrial undertaking" means:

- 1) Any undertaking engaged in
 - (i) Manufacturing, assembling and processing,
 - (ii) Construction, civil engineering and shipbuilding,
 - (iii) Production of electricity, hydraulic power or gas, or the supply of water, or
 - (iv) Agriculture, forestry and fishery and the carrying on of a plantation, and
- 2) Any other undertaking entitled to the privileges accorded under the laws of Thailand on the promotion of industrial investment, and
- 3) Any other undertaking which may be declared to be an "industrial undertaking" for the purpose of this Article by the competent authority of Thailand.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner 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 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State. Nothing in this paragraph shall be construed as preventing either Contracting State from imposing income tax on disposal of profits according to the laws of that State.

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 Contracting State.

2. However, such interest may be taxed in the Contracting State in which it arises, and according to the laws of that State but if the recipient of the interest is a company the tax so charged shall not exceed:

- a) 10 per cent of the gross amount of the interest if it is received by any financial institution (including an insurance company);
- b) In all other cases, 25 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to the Government of the other Contracting State shall be exempt from tax of the first-mentioned Contracting State.

4. For the purposes of paragraph 3, the term "Government" means

- a) In the case of Finland, the Government of Finland and shall include the Bank of Finland and any institution wholly owned by the Government of Finland, as may be agreed from time to time between the Governments of the two Contracting States;
- b) In the case of Thailand, the Royal Government of Thailand and shall include:
 - (i) The Bank of Thailand;
 - (ii) The local authorities; and
 - (iii) Such institutions, the capital of which is wholly owned by the Royal Government of Thailand or any local authorities, as may be agreed from time to time between the Governments of the two Contracting States.

5. 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 laws of the Contracting State in which the income arises. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

6. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner 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 14, as the case may be, shall apply.

7. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, 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.

8. Where, by reason of a special relationship between the payer and the beneficial owner 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 beneficial owner 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 12. ROYALTIES

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

2. However, such royalties may be taxed in the Contracting State in which they arise, and according to the laws of that Contracting State, but if the beneficial owner of the royalties is a resident of the other Contracting State the tax so charged shall not exceed 15 per cent of the gross amount of the royalties.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the alienation or the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, or films or tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed

base. In such 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 statutory body, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties 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 beneficial owner or between both of them and some other person, the amount of the royalties, 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 beneficial owner 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. 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 referred to in paragraph 4 of Article 6 may be taxed in the Contracting State in which the immovable property held by the company is situated.

3. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a 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 derived by an enterprise of a Contracting State 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 that Contracting State.

5. Gains from the alienation of any property or assets other than those referred to in the preceding paragraphs of this Article, shall be taxable only in the Contracting State of which the alienator is a resident.

6. Notwithstanding the provisions of paragraph 5, the gains or income from the sale or other transfer of shares or other securities other than those referred to in paragraph 2 may be taxed according to the law of each Contracting State.

Article 14. INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless such activities were performed in the other Contracting

State. Income in respect of professional services or independent activities performed within that other State may be taxed by that other State.

2. Notwithstanding the provisions of paragraph 1, income derived by a resident of a Contracting State in respect of professional services or other independent activities performed in the other Contracting State shall not be taxable in the other State if:

- a) The recipient is present in the other State for a period or periods not exceeding in the aggregate 90 days within any twelve-month period,
- b) The recipient does not maintain a fixed base in the other State, and
- c) The income is not borne by an enterprise or a permanent establishment situated in that other State.

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

Article 15. DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

- a) The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days within any twelve-month period, and
- b) The remuneration is paid by an employer who is not a resident of the other State, and
- c) The remuneration is not borne by an enterprise of the other State or 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 by an enterprise of a Contracting State shall be taxable only in that State.

Article 16. 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 17. ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but

to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. Notwithstanding the provisions of Article 7, where the activities mentioned in paragraph 1 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.

4. The provisions of paragraphs 1, 2 and 3 shall not apply to remuneration or profits, salaries, wages and similar income derived from activities performed in a Contracting State if such activities are substantially supported by the Government or from public funds of the other Contracting State, including any local authority thereof.

Article 18. PENSIONS

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration derived by a resident of a Contracting State may be taxed in the other Contracting State if such payments are borne by an enterprise of that State or by a permanent establishment situated therein.

3. Notwithstanding the provisions of paragraphs 1 and 2, and subject to the provisions of paragraph 2 of Article 19, pensions paid and other payments made under the social security legislation of a Contracting State may be taxed according to the law of each Contracting State.

Article 19. 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 other Contracting State if the individual is a resident of, and 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 a business carried on by a Contracting State or a statutory body or a local authority thereof.

Article 20. STUDENTS AND TRAINEES

1. An individual who, immediately before visiting a Contracting State, is or was a resident of the other Contracting State and whose visit to the first-mentioned Contracting State is solely for the purpose of:

- a) Studying at a university, college or school or other similar educational institution which is recognised by the competent authority of that first-mentioned State, or
- b) Securing training to qualify him to practise a profession or trade, or
- c) Studying or carrying out research as a recipient of a grant, allowance or award from a governmental, religious, charitable, scientific, literary or educational organisation;

shall be exempt from tax in the first-mentioned State on:

- (i) Remittances from abroad for the purpose of his maintenance, education, study, research or training; and
- (ii) The grant, allowance or award.

2. An individual who, immediately before visiting a Contracting State, is or was a resident of the other Contracting State and who is present in the first-mentioned State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned solely for the purpose of:

- a) Studying at a university, college or school or other similar educational institution which is recognised by the competent authority of that first-mentioned State, or
- b) Securing training to qualify him to practise a profession or trade, or
- c) Studying or carrying out research as a recipient of a grant, allowance or award from a governmental, religious, charitable, scientific, literary or educational organisation;

shall be exempt from tax in that first-mentioned State in respect of income from personal services rendered in that State provided that the income constitutes earnings necessary for his maintenance and education. If he is present in that first-mentioned State for a period or periods aggregating more than 183 days 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 21. INCOME NOT EXPRESSLY MENTIONED

Items of income not dealt with in the foregoing Articles may be taxed according to the law of each Contracting State.

Article 22. ELIMINATION OF DOUBLE TAXATION

1. The laws in force in either of the Contracting States shall continue to govern the taxation of income in the respective Contracting States except where express provisions to the contrary are made in this Convention. Where income is subject to tax in both Contracting States, relief from double taxation shall be given in accordance with the following paragraphs of this Article.

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

- a) Where a resident of Finland derives income which, in accordance with the provisions of this Convention, may be taxed in Thailand, Finland shall, subject to the provisions of sub-paragraph b), allow as a deduction from the tax on income of

that person, an amount equal to the tax on income paid in Thailand. Such deduction shall not, however, exceed that part of the tax on income, as computed before the deduction is given, which is attributable to the income which may be taxed in Thailand.

b) Dividends paid by a company which is a resident of Thailand 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 Thailand and under Finnish taxation law with respect to the Finnish taxes referred to in Article 2 also is regarded as resident in Finland may be taxed in Finland. However, Finland shall allow any Thai tax paid on the income 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 provision of the Convention income derived by a resident of Finland is exempt from tax in Finland, Finland may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

e) For the purposes of sub-paragraph a), the term "tax on income paid in Thailand" shall be deemed to include Thai tax which would, under the law of Thailand and in accordance with the Convention, have been payable as Thai tax but for any exemption or reduction of Thai tax on income arising from Thailand granted under the Investment Promotion Act B.E.2520 (1977) of Thailand, so far as it was effective on, and has not been modified since, the date of signature of the Convention or has been modified only in minor respects so as not to affect its general character, or any other provisions which may subsequently be enacted and agreed upon in an exchange of letters between the Governments of the Contracting States.

f) The provisions of sub-paragraph e) shall apply for the first ten years for which the Convention is effective but the Governments of the Contracting States may consult each other to determine whether this period shall be extended.

3. In the case of Thailand, Finnish tax payable in respect of income from sources within Finland shall be allowed as a credit against Thai tax payable in respect of that income. The credit shall not, however, exceed that part of the Thai tax, as computed before the credit is given, which is appropriate to such item of income. However, where such income is a dividend paid by a company which is a resident of Finland to a company which is a resident of Thailand and which owns not less than 25 per cent of the voting shares of the company paying the dividend, Thailand shall exempt such income from tax but may in calculating tax on the remaining income of that person, apply the rate of tax which would have been applicable if the exempted income had not been so exempted.

4. Where a resident of a Contracting State receives any payment referred to in paragraph 3 of Article 18 which has been charged to tax in that State and may be taxed in the other Contracting State, that other State shall allow as a deduction from the tax on income of that resident an amount equal to the tax on income paid in the first-mentioned State. Such deduction, however, shall not exceed that part of the tax on income, as computed before the deduction is given, which is attributable to the payments which may be taxed in that other State.

Article 23. NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 8 of Article 11, or paragraph 6 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

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

5. In this Article, the term "taxation" means taxes which are the subject of this Convention.

Article 24. 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 23, 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 9. 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.

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 25. EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret 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 26. 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 27. 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 the first day of January in the calendar year next following the year in which the Convention enters into force;

- (ii) In respect of other taxes on income, to taxes chargeable for any taxable year beginning on or after the first day of January in the calendar year next following the year in which the Convention enters into force;
 - b) In Thailand:
- (i) In respect of withholding taxes, on amounts payable on or after the first day of January in the calendar year next following the year in which the Convention enters into force;
- (ii) In respect of other taxes, for tax years or accounting periods beginning on or after the first day of 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 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 the first day of January in the calendar year next following the year in which the notice is given;
- (ii) In respect of other taxes on income, to taxes chargeable for any taxable year beginning on or after the first day of January in the calendar year next following the year in which the notice is given;

b) In Thailand:

- (i) In respect of withholding taxes, on amounts payable on or after the first day of January in the calendar year next following that in which the notice is given; and
- (ii) In respect of other taxes, for tax years or accounting periods beginning on or after the first day of January in the calendar year next following that in which the notice is given.

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

DONE in duplicate at Bangkok this 25th day of April 1985, in the English language.

For the Government of the Republic of Finland:

JERMU LAINE

Minister for Foreign Trade

For the Government of the Kingdom of Thailand:

PRAPAS LIMPABANDHU

Acting Minister of Foreign Affairs

PROTOCOL

At the moment of signing the Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, this day concluded between the Government of the Republic of Finland and the Government of the Kingdom of Thailand, the undersigned have agreed that the following provisions shall form an integral part of the Convention.

Ad Article 5

It is agreed that for the purpose of paragraph 6 of Article 5, the term “substantially” is understood to mean that the person’s activities for enterprises other than those referred to therein are of such minor importance as compared with his activities for the enterprises mentioned therein that for all practical purposes such person may be regarded as working solely for the latter enterprises.

Ad Article 5 and Article 6

It is understood that a farm or plantation shall, in the case of Thailand, for the purposes of Article 7 of the Convention be regarded as a permanent establishment referred to in Article 5 of the Convention. Under Finnish tax law income from agriculture or forestry is treated as income from immovable property. Accordingly, income from agriculture or forestry carried on in Finland shall, for the purposes of the Convention, be treated as income from immovable property referred to in Article 6 of the Convention.

Ad Article 17

In order to obtain the benefit referred to in paragraph 4 of Article 17, evidence of substantial support shall in case of doubt be presented in the State in which the activities are performed, as agreed upon by mutual agreement by the competent authorities of the Contracting States.

In the case of Thailand, the concept of “public funds” includes money from charitable organisations or institutions.

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

DONE in duplicate at Bangkok this 25th day of April 1985, in the English language.

For the Government of the Republic of Finland:

JERMU LAINE

Minister for Foreign Trade

For the Government of the Kingdom of Thailand:

PRAPAS LIMPABANDHU

Acting Minister of Foreign Affairs