

No. 25815

**FINLAND
and
YUGOSLAVIA**

**Convention for the avoidance of double taxation with respect to taxes on income and on capital (with protocol).
Signed at Belgrade on 8 May 1986**

Authentic texts: English.

Registered by Finland on 30 March 1988.

**FINLANDE
et
YUGOSLAVIE**

**Convention tendant à éviter la double imposition en matière d'impôts sur le revenu et la fortune (avec protocole).
Signée à Belgrade le 8 mai 1986**

Textes authentiques : anglais.

Enregistrée par la Finlande le 30 mars 1988.

CONVENTION¹ BETWEEN THE REPUBLIC OF FINLAND AND THE
SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA FOR THE
AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES
ON INCOME AND ON CAPITAL

The Republic of Finland and the Socialist Federal Republic of Yugoslavia,
Desiring to conclude a Convention for the avoidance of double taxation with respect
to taxes on income and on capital,

Have agreed as follows:

Article 1. PERSONAL SCOPE

This Convention shall apply to persons who are residents of one or both of the
Contracting States.

Article 2. TAXES COVERED

1. This Convention shall apply to taxes on income and on capital imposed on behalf
of a Contracting State or of its political subdivisions or local authorities, irrespective of
the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital all taxes imposed on
total income, on total capital, or on elements of income or of capital, including taxes on
gains from the alienation of movable or immovable property, taxes on the total amount
of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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

a) In Finland:

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

b) In Yugoslavia:

- (i) The tax on income;
- (ii) The tax on a worker's personal income;
- (iii) The tax on personal income from agricultural activity;
- (iv) The tax on personal income from economic activity,
- (v) The tax on personal income from professional activity;
- (vi) The tax on royalties from copyrights, patents and technical innovations;

¹ Came into force on 18 December 1987, i.e., 30 days after the date of the last of the notifications (effected on 18 November 1987) by which the Contracting Parties informed each other of the completion of the constitutional requirements, in accordance with article 27 (2).

- (vii) The tax on revenue deriving from capital and capital rights;
- (viii) The tax on capital;
- (ix) The tax on total revenue of citizens;
- (x) The tax on income of a foreign person engaged in economic and professional activities;
- (xi) The tax on profit obtained by a foreign person from his investments in a domestic organisation of associated labour; and
- (xii) The tax on profit from transportation activity of a foreign person not having his agency in the territory of the Socialist Federal Republic of Yugoslavia; (hereinafter referred to as “Yugoslav tax”).

4. 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 any substantial changes which have been made in their respective taxation laws.

Article 3. GENERAL DEFINITIONS

1. For the purposes of this Convention:

- 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 sea 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 for and exploitation of the natural resources of the sea bed and its sub-soil may be exercised;
- b) The term “Yugoslavia” means the Socialist Federal Republic of Yugoslavia and, when used in a geographical sense, means the territory of the Socialist Federal Republic of Yugoslavia, and any area adjacent to the territorial sea of the Socialist Federal Republic of Yugoslavia within which, under the laws of Yugoslavia and in accordance with international law, the rights of Yugoslavia with respect to the exploration for and exploitation of the natural resources of the sea bed and sub-soil may be exercised;
- c) The term “person” means:
 - (i) In the case of Finland, an individual, a company and any other body of persons;
 - (ii) In the case of Yugoslavia, an individual and any legal person;
- d) The term “company” means
 - (i) In the case of Finland, any body corporate or any entity which is treated as a body corporate for tax purposes;
 - (ii) In the case of Yugoslavia, an organisation of associated labour and any other legal person subject to tax;
- e) The terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean, as the context requires, in the case of Yugoslavia, an organisation of associated labour, a self-managed organisation and community, working people

who individually perform activities independently and an enterprise established in accordance with the laws of Yugoslavia carried on by a resident of Yugoslavia, and in the case of Finland, an enterprise carried on by a resident of Finland;

f) The term “national” means:

- (i) In the case of Finland, any individual possessing the nationality of Finland and any legal person, partnership and association deriving its status as such from the laws in force in Finland;
- (ii) In the case of Yugoslavia, any individual possessing the nationality of the Socialist Federal Republic of Yugoslavia under the Yugoslav laws in force, and any Yugoslav legal person;

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

h) The term “competent authority” means:

- (i) In the case of Finland, the Ministry of Finance or its authorised representative;
- (ii) In the case of Yugoslavia, the Federal Secretariat of Finance or its authorised representative.

2. As regards the application of the Convention by a Contracting State any term not defined therein shall have the meaning which it has under the law 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 management or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 of this Article 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 of this Article 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; and
- f)* A mine, a quarry or any other place of extraction of natural resources.

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

4. Notwithstanding the provisions of paragraphs 1, 2 and 3 of this Article, the term “permanent establishment” shall be deemed not to include:

- a)* The use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- b)* The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- c)* The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d)* The maintenance of a fixed place of business 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. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, where a person—other than an agent of an independent status to whom paragraph 6 applies—is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 of this Article which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

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

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6. INCOME FROM IMMOVABLE PROPERTY

1. Income 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. For the purposes of this Convention, the term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. Ships and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 of this Article shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 of this Article 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 that permanent establishment.

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

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. 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 of this Article 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. Any profits derived from sources in Yugoslavia by a resident of Finland from his investments in a domestic organisation of associated labour may be taxed in Yugoslavia.

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

Article 8. SHIPPING AND AIR TRANSPORT

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

3. The provisions of paragraph 1 of this Article shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9. ASSOCIATED ENTERPRISES

Where

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

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

Article 10. DIVIDENDS

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

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but the tax so charged shall not exceed:

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

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of 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. The term “dividends” as used in this Article means, in respect of Finland, 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 that State. Any distributed profits derived from sources in Yugoslavia by a resident of Finland from his investments in a domestic organisation of associated labour shall not be regarded as dividends for the purposes of this Convention.

4. The provisions of paragraphs 1 and 2 of this Article 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 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State nor subject the company’s undistributed profits to a tax on the company’s undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11. INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State.

2. The term “interest” as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and from debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

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

4. 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 paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In 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 also be taxed in the Contracting State in which they arise and according to the laws of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and films or tapes for television or radio 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 of this Article shall not apply if the recipient of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State, and in the case of Finland, a statutory body.

6. Notwithstanding the provisions of paragraph 5 of this Article, where 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.

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 paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In 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 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.

3. Notwithstanding the provisions of paragraph 2 of this Article 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.

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

Article 14. INDEPENDENT PERSONAL SERVICES

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

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

- a) the resident 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 resident does not have a fixed base regularly available to him in the other State for a period or periods exceeding in the aggregate 183 days in the calendar year.

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, 17, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1 of this Article, 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, a person to whom, or for whose benefit, the relevant dependent personal services are rendered and 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 person to whom, or for whose benefit, the relevant dependent personal services are rendered has in the other State.

3. a) Remuneration paid by a Contracting State or a political subdivision or a local

authority or, in the case of Finland, a statutory body thereof to an individual shall be taxable only in that State.

b) Remuneration paid by a Contracting State or a political subdivision or a local authority or, in the case of Finland, a statutory body thereof to an individual shall be taxable only in the other Contracting State if the work is performed in that other State and the recipient is a resident of that other State who:

- (i) is a national of that State, or
- (ii) did not become a resident of that State solely for the purpose of performing the work.

4. Remuneration derived by an individual in respect of work performed in connection with a business carried on by a Contracting State or a political subdivision or a local authority or, in the case of Finland, a statutory body thereof shall be taxable in accordance with the provisions of paragraphs 1 and 2 of this Article.

5. Remuneration derived by individuals in respect of their work in the Joint Economic Representation of Yugoslavia or in the Tourist Federation of Yugoslavia shall be taxable in accordance with the provisions of paragraph 3 of this Article.

6. 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 16. DIRECTORS' FEES AND FEES DERIVED FROM WORK
IN JOINT BUSINESS BOARDS*

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

2. Fees and other similar payments derived by a resident of Finland in his capacity as a member of a joint business board of a company which is a resident of Yugoslavia may be taxed in Yugoslavia.

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 derived directly or indirectly by reason of entertainment or athletic contest 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 paragraphs 1 and 2 of this Article, income derived in respect of activities referred to in paragraph 1 of this Article and exercised within the framework of a cultural or sports exchange programme approved by both Contracting States shall be taxable only in the Contracting State of which the entertainer or athlete is a resident.

Article 18. PENSIONS

1. 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 of this Article any pension paid by a Contracting State or a political subdivision or a local authority or, in the case of Finland, a statutory body thereof out of the budget or special funds to any individual shall be taxable only in that State. However, such pension shall [be] taxable only in the other Contracting State if the recipient is a national of and a resident of that State.

3. Any pension derived by an individual in respect of work performed in connection with a business carried on by a Contracting State or a political subdivision or a local authority or, in the case of Finland, a statutory body thereof shall be taxable only in the Contracting State of which the individual is a resident.

4. Notwithstanding the provisions of paragraphs 1 and 3 of this Article payments made under the Public Social Security Scheme of a Contracting State may be taxed in that State.

Article 19. STUDENTS AND APPRENTICES

1. Payments which a student or business 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 apprentice who is or was immediately before visiting the other Contracting State a resident of the first-mentioned State and who is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned, shall not be taxed in that other State in respect of remuneration for services rendered in that State, provided that the services are in connection with his studies or training and the remuneration constitutes earnings necessary for his maintenance.

Article 20. OTHER INCOME

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

2. The provisions of paragraph 1 of this Article shall not apply to income, other than income from immovable property referred to in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 21. 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 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.

3. 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.

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

Article 22. ELIMINATION OF DOUBLE TAXATION

1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow:

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

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 that other State.

2. Notwithstanding any other provision of this Convention an individual who is a resident of Yugoslavia 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 Yugoslav tax paid on the income or the capital as a deduction from Finnish tax in accordance with the provisions of paragraph 1 of this Article. The provisions of this paragraph shall apply only to nationals of Finland.

3. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State 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.

4. a) For the purpose of allowance as a credit in a Contracting State, the tax paid in the other Contracting State shall be deemed to include the tax which is otherwise payable in that other State but has been reduced or waived by that State under its legal provisions for tax incentives.

b) This provision shall apply for the first five years for which the Convention is effective but the competent authorities of the Contracting States may consult each other to determine whether this period shall be extended.

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.

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

3. Except where the provisions of Article 9, paragraph 4 of Article 11, or paragraph 7 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned 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. The provisions of this Article shall apply to the taxes referred to in Article 2.

Article 24. MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with 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. 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. In the event the competent authorities reach an agreement, taxes shall be imposed, 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.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts 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. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of paragraphs 1, 2

and 3 of this Article. 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. 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 prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 of this Article be construed so as to impose on the competent authority of a Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) to supply 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 business or official 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 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, on 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, for taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the Convention enters into force;

b) In Yugoslavia:

In respect of taxes on income and on capital for any fiscal year beginning on or after 1 January in the calendar year next following the year in which the Convention enters into force.

Article 28. TERMINATION

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination on or before the thirtieth day of June in a calendar year after the fifth year from the date of entry into force of the Convention. In such event, the Convention shall cease to have effect:

a) In Finland:

- (i) In respect of taxes withheld at source, on 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, for taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the notice is given;

b) In Yugoslavia:

In respect of taxes on income and on capital for any fiscal year beginning on or after 1 January in the calendar year next following the year in which the notice of termination has been given.

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

DONE in duplicate at Beograd this 8th day of May 1986, in the English language.

For the Republic of Finland:

HEIKKI TALVITIE

For the Socialist Federal Republic of Yugoslavia:

V. KLEMENČIĆ

PROTOCOL

At the signing today of the Convention between the Republic of Finland and the Socialist Federal Republic of Yugoslavia for the avoidance of double taxation with respect to taxes on income and on capital, the undersigned have agreed upon the following provisions which shall form an integral part of the Convention:

1. *With reference to Article 6*

Where the ownership of shares or other corporate rights in a company, being a resident of Finland, 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 Finland.

2. *With reference to Article 11*

The provisions of paragraph 1 of Article 11 are based on the fact that

- a) Finland under its taxation law as in force at the date of signature of the Convention exempts from income tax interest derived by persons who are not resident in Finland on bonds, debentures and other mass instruments of debt, loans from abroad not considered as capital investment assimilated to the debtor's equity, deposits in banks or other financial institutions, and foreign trade credit accounts; and
- b) Yugoslavia under its taxation law as in force at the date of signature of the Convention does not impose any income tax on interest paid to persons who are not resident in Yugoslavia.

If, after the date of signature of the Convention, one or both of the Contracting States shall impose income tax on interest referred to above, they shall enter into negotiations with a view to revising Article 11 of the Convention.

3. *With reference to Article 13*

Gains derived from the alienation of shares or other corporate rights in a company, being a resident of Finland, the ownership of which entitles the owner of such shares or corporate rights to the enjoyment of immovable property held by the company may be taxed in Finland.

4. *With reference to Article 21*

Shares or other corporate rights in a company, being a resident of Finland, the ownership of which entitles the owner of such shares or corporate rights to the enjoyment of immovable property held by the company may be taxed in Finland.

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

DONE in duplicate at Beograd this 8th day of May 1986, in the English language.

For the Republic of Finland:

HEIKKI TALVITIE

For the Socialist Federal Republic of Yugoslavia:

V. KLEMENČIĆ