

No. 26171

**FINLAND
and
UNION OF SOVIET SOCIALIST REPUBLICS**

**Convention for the avoidance of double taxation with respect
to taxes on income (with protocol). Signed at Moscow
on 6 October 1987**

Authentic texts: Finnish and Russian.

Registered by Finland on 28 September 1988.

**FINLANDE
et
UNION DES
RÉPUBLIQUES SOCIALISTES SOVIÉTIQUES**

**Convention tendant à éviter la double imposition en matière
d'impôts sur le revenu (avec protocole). Signée à Moscou
le 6 octobre 1987**

Textes authentiques : finnois et russe.

Enregistrée par la Finlande le 28 septembre 1988.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE REPUBLIC OF FINLAND AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME

The Government of the Republic of Finland and the Government of the Union of Soviet Socialist Republics,

In view of the friendly, good-neighbourly relations existing between the two countries and on the basis of the Treaty of Friendship, Cooperation and Mutual Assistance of 6 April 1948² between the Republic of Finland and the Union of Soviet Socialist Republics;

Affirming their desire, in accordance with the Final Act of the Conference on Security and Cooperation in Europe of 1 August 1975³, for the further development and strengthening of economic, industrial and technical cooperation between the two countries and, in particular, with a view to avoiding double taxation,

Have agreed as follows:

Article I. PERSONAL SCOPE

1. This Agreement shall apply to persons who, for tax purposes, are permanent residents of one or both of the Contracting States.

2. For the purposes of this Agreement, the term “permanent resident of a Contracting State” means a person who, under the laws of that State, is liable to taxation therein by reason of permanent residence, domicile or place of management, or because the person is established there.

3. Where by reason of the provisions of paragraph 2, an individual is deemed to be a permanent resident of both Contracting States, his permanent residence for the purposes of this Agreement, as far as taxation is concerned, shall be determined as follows:

(a) He shall be deemed to be a permanent resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a permanent resident of the State with which his personal and economic relations are closer (centre of vital interests);

(b) If the Contracting State in which he has his centre of vital interests cannot be determined, or if he does not have a permanent home available to him in either State, he shall be deemed to be a permanent resident of the State in which he has a habitual abode;

(c) If he has a habitual abode in both States or in neither of them, he shall be deemed to be a permanent resident of the State of which he is a national;

¹ Came into force on 18 June 1988, i.e., the thirtieth day following the exchange of the instruments of ratification, which took place at Helsinki on 19 May 1988, in accordance with article 18(2).

² United Nations, *Treaty Series*, vol. 48, p. 149.

³ *International Legal Materials*, vol. 14 (1975), p. 1292 (American Society of International Law).

(d) If both States regard him as a national, or if he is a national of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

4. Where by reason of the provisions of paragraph 2 a person other than an individual is deemed to be a permanent resident of both Contracting States, it shall be deemed to be a permanent resident of the State in which its place of effective management is situated.

Article 2. TAXES COVERED

1. This Agreement shall apply to the following taxes on income:

(a) In the case of the Union of Soviet Socialist Republics:

- (1) The income tax on foreign legal entities;
- (2) The income tax on the population; and
- (3) The tax on the profits transferred abroad of a foreign participant in a joint venture;

(b) In the case of the Republic of Finland:

- (1) The State income tax;
- (2) The communal tax; and
- (3) The tax withheld at source on income received.

2. The Agreement shall also apply to any identical or similar taxes which are imposed in addition to, or in place of, the existing taxes after the date of signature of this Agreement. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their tax laws.

Article 3. GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires, the terms mentioned below shall have the following meanings:

(a) "One Contracting State" and "the other Contracting State" mean, as the context requires, the Union of Soviet Socialist Republics (USSR) or the Republic of Finland (Finland);

(b) "Person" means an individual and:

- (1) In the case of the USSR, a body corporate or an organization established under the laws of the USSR or of any Union Republic which is treated as a legal entity in the USSR for tax purposes;
- (2) In the case of Finland, a company or other association;

(c) "International traffic" means any transport effected by a permanent resident of one Contracting State, except for transport effected exclusively between points situated in the other Contracting State;

(d) "Competent authority" means:

- (1) In the case of the USSR, the Ministry of Finance of the USSR or its authorized representative;
- (2) In the case of Finland, the Ministry of Finance of Finland or its authorized representative.

2. In the application of this Agreement by a Contracting State, any term which is not defined in the Agreement shall, unless the context otherwise requires, have the meaning which it has under the laws of that State.

Article 4. PERMANENT REPRESENTATION

1. For the purposes of this Agreement, the term “permanent representation” means a permanent place of business through which a permanent resident of one Contracting State wholly or partly carries on business in the other Contracting State.

2. A building site or construction or installation project shall constitute a permanent representation only if the duration of the work related thereto exceeds 36 months.

The competent authorities of the Contracting State in which the construction or installation work is carried out may, in exceptional circumstances and at the request of the person carrying out the work, determine that such activity does not constitute a permanent representation even in cases where the duration of the work exceeds 36 months.

3. Notwithstanding the foregoing provisions of this article, the following kinds of activity of a permanent resident of one Contracting State shall not be regarded as being carried out by such resident through a permanent representation in the other Contracting State:

- (a) The use of premises exclusively for the purpose of storage, demonstration or display of goods or articles belonging to the permanent resident;
- (b) The maintenance of stocks of goods or articles belonging to a permanent resident solely for the purpose of storage, demonstration or display;
- (c) The sale of exhibits belonging to a permanent resident at the closure of exhibitions or trade fairs;
- (d) The maintenance of stocks of goods or articles belonging to a permanent resident solely for the purpose of further treatment or processing by another person;
- (e) The use of a permanent place of business solely for the purpose of purchasing goods or articles, collecting or disseminating information, or carrying on, for a permanent resident, advertising or any other activity of a preparatory or auxiliary character;
- (f) The use of a permanent place of business solely for the purpose of facilitating the conclusion or signing of contracts on behalf of a permanent resident;
- (g) The use of a permanent place of business solely for the purpose of carrying on, for a permanent resident, several of the kinds of activity referred to in subparagraphs (a) to (f).

4. Notwithstanding the provisions of paragraph 1, if a person—other than an agent of an independent status to whom paragraph 5 applies—is acting on behalf of a permanent resident of one Contracting State and has and habitually exercises in the other Contracting State an authority to conclude contracts in the name of that permanent resident, such permanent resident shall be deemed to have a permanent representation in that other State in respect of any activities which the person given such authority carries on for him, unless such activities are limited to those mentioned in paragraph 3.

5. A permanent resident of one Contracting State shall not be deemed to have a permanent representation in the other Contracting State merely because he carries on business in that other State through a broker, commission agent or other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

6. The fact that a permanent resident of one Contracting State controls a permanent resident of the other Contracting State or carries on business in that other State (through a permanent representation or otherwise) shall not of itself be grounds for regarding one such person as constituting a permanent representation of the other.

Article 5. BUSINESS PROFITS

1. The profits of a permanent resident of one Contracting State shall be taxable only in that State unless such resident carries on business in the other Contracting State through a permanent representation situated therein. If a permanent representative of one Contracting State carries on business as aforesaid, the profits of such resident may be taxed in the other State, but only so much of them as is attributable to the permanent representation.

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

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

4. No profits shall be attributed to a permanent representation by reason of the mere purchase of goods by that permanent representation for a permanent resident of a Contracting State.

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

6. Profits received from carrying out the work referred to in article 4, paragraph 2, may be taxed in the Contracting State in which such work is carried out only in respect of the amount thereof received after the expiry of the period during which such activity is not regarded as being carried out through a permanent representation.

Article 6. INTERNATIONAL TRAFFIC

1. Income from international traffic received by a person or permanent representation in one Contracting State shall be taxable only in that State.

2. The provision of paragraph 1 shall also apply to profits from participation in a pool, joint venture or international organization for the operation of means of transport.

Article 7. DIVIDENDS

1. Dividends paid by a body corporate which is a permanent resident of one Contracting State to a permanent resident of the other Contracting State shall be taxable only in that other State.

2. The term "dividends" as used in this article means income from shares and income from other rights treated for tax purposes as income from shares under the laws of the Contracting State in which the body corporate distributing the profits has a permanent representation. This term also means the profits of a joint venture formed under the laws of the USSR accruing to a participant therein which is a permanent resident of Finland and exported from the USSR.

3. The provision of paragraph 1 shall not apply if the recipient of the dividends, being a permanent resident of one Contracting State, carries on a business in the other Contracting State, of which the body corporate paying the dividends is a permanent resident, through a permanent representation situated therein and if the participation in respect of which the dividends are paid is actually related to such permanent representation. In such cases the provisions of article 5 shall apply.

Article 8. INTEREST

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

2. The term "interest" as used in this article means income from debt claims and other income treated as interest for tax purposes under the laws of the Contracting State of which the person paying the interest is a permanent resident.

3. The provision of paragraph 1 shall not apply if the recipient of the interest, being a permanent resident of one Contracting State, carries on a business in the other Contracting State, in which the interest arises through a permanent representation situated therein, and if the debt claim, in respect of which the interest is paid is actually related to such permanent representation. In such cases the provisions of article 5 shall apply.

Article 9. INCOME FROM INTELLECTUAL PROPERTY

1. Income from intellectual property arising in one Contracting State and paid to a permanent resident of the other Contracting State shall be taxable only in that other State.

2. The term "income from intellectual property" as used in this article means any payments received as a consideration for the sale of, use of or granting of the right to use:

- (a) Copyright of works of science, literature and art;
- (b) Inventions (whether or not protected by patents or author's certificates);
- (c) Industrial designs;
- (d) Trade marks, service marks or other similar rights;
- (e) Names of firms and other similar rights;
- (f) Computer programmes and microcircuit designs;
- (g) Tapes for the production of gramophone records and other means of reproduction of sound or video recordings;
- (h) Tapes or films or other cinematographic recordings used for radio or television broadcasting;
- (i) Experience, knowledge and production secrets (know-how).

3. The provisions of this article shall also apply to:

- (a) Payments made for the sale of, use of or granting of the right to use industrial and scientific equipment and other scientific and technical facilities, provided that such payments relate to sale, use or granting of the right to use as envisaged in this article;
- (b) Payments made for the provision of technical services, provided that such payments relate to sale, use or granting of the right to use as envisaged in this article;
- (c) Payments made for the production of recordings on gramophone records, tapes and other sound-reproduction equipment.

4. The provision of paragraph 1 shall not apply if the recipient of the income, being a permanent resident of one Contracting State, carries on a business in the other Contracting State, where such income arises, through a permanent representation situated therein, and if the right or property in respect of which such income is paid is actually related to such permanent representation. In such cases the provisions of article 5 shall apply.

Article 10. INCOME FROM PROPERTY

1. Income or profits received by a permanent resident of one Contracting State from the sale, exchange, direct use, letting or use in any other form of immovable property situated in the other Contracting State may be taxed in that other State.

2. The term “immovable property” shall have the meaning which it has under the laws of the Contracting State in which the property is situated.

3. Income or profits received from the sale or exchange of movable property related to a permanent representation which a permanent resident of one Contracting State has in the other Contracting State, including income received from the sale or exchange of such permanent representation, may be taxed in that other State.

4. Income or profits received by a permanent resident of one Contracting State from the sale, exchange, direct use, letting or use in any other form of movable property not referred to in paragraph 3 shall be taxable only in that State.

Article 11. INCOME OF INDIVIDUALS

1. Salaries or other remuneration received by an individual who is a permanent resident of one Contracting State in respect of work performed by him in the other Contracting State shall not be taxable in that other State if the said individual stays in that other State for a period or periods not exceeding in the aggregate 183 days in a calendar year, and if the employer by whom or on behalf of whom the salary is paid is not a permanent resident of that other State, and if the salary costs are not borne by a permanent representation situated in that other State.

2. However, an individual who is a permanent resident of one Contracting State immediately before his arrival in the other Contracting State and who is in that other State in order to perform the functions referred to below shall not be taxed in that other State in respect of:

- (a) Salary or other remuneration for work related to a building site or construction or installation project and performed in that other State, during the period within which the performance of the said activity, in accordance with article 4, paragraph 2, does not constitute a permanent representation in that other State;
- (b) Income received by an individual who is present in that other State at the invitation of a government department or institution of that other State, or of an academic or scientific-research institute situated in that other State, for the purpose of teaching, conducting scientific research or participating in scientific, technical or professional conferences, in respect of the aforementioned activity envisaged in the invitation, during a stay by such individual in that other State which shall not exceed three consecutive years;
- (c) Grants received by students, graduate students or trainees who are present in that other State to study or to acquire specialized experience, as well as sums of money received by such individuals from sources outside that other State to pay the costs

of their maintenance, education and acquisition of specialized experience. The exemption from taxation envisaged in this subparagraph shall be granted for the period needed to attain the purpose of the stay, which shall not, however, exceed six years;

- (d) Salaries or other remuneration received by an individual who is present in that other State for a period not exceeding three years during any four consecutive calendar years to perform the functions of a technical or trade expert, or of a journalist or press, radio or television correspondent, if the employer by whom or on behalf of whom the salary is paid is not a permanent resident of that other State, and if the salary costs are not borne by a permanent representation of the employer situated in that other State;
- (e) Salaries or other remuneration of the staff of a permanent representation situated in that other State of a person engaged in international traffic—if such staff is present in that other State to perform the above-mentioned functions—received over a period not exceeding three years during any four consecutive calendar years, if the individual to whom the salary is paid is not a national of that other State.

3. Notwithstanding the other provisions of this article, income received by an individual who is a permanent resident of one Contracting State in respect of his personal activities exercised in the other Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, may be taxed in that other State. However, such income shall be taxable only in the first Contracting State if:

- (a) The exercise of the activities is paid for mainly from the State resources of one of the States, or
- (b) The amount of the income received from the activities during any calendar year does not exceed 15,000 roubles or an equivalent amount in Finnish currency; in the event of a significant change in the economic living conditions in one or both Contracting States, the competent authorities of the Contracting States may agree to revise the aforementioned limit.

4. Pensions paid under the laws of a Contracting State shall be taxable only in that State.

5. Notwithstanding the other provisions of this article, directors' fees and other similar payments received by an individual who is a permanent resident of the Contracting State in his capacity as a member of the board of directors or similar organ of a body corporate which is a permanent resident of the other Contracting State may be taxed in that other State.

6. Notwithstanding the other provisions of this article, income in the form of a salary or other similar remuneration received by a national of one Contracting State in respect of the exercise of functions related to an activity of that State in the other Contracting State shall not be taxable in that other State.

7. Notwithstanding the other provisions of this article, remuneration received for salaried work aboard means of transport used in international traffic by a permanent resident of a Contracting State shall be taxable only in that State.

8. In the application of paragraph 2, the computation of taxes shall begin in respect of the income received on or after the day following the expiry of the time-limits specified in that paragraph. The competent authorities of the Contracting States may, if necessary in individual cases, extend by mutual agreement the period of tax exemption in respect of the persons referred to in paragraph 2.

9. The provisions of this Agreement shall not affect the fiscal privileges of diplomatic and consular officials, including employees of the USSR Trade Mission in Finland, established under the general rules of international law or under special agreements.

Article 12. OTHER INCOME

Income received by a permanent resident of one Contracting State and not dealt with in the foregoing articles of this Agreement shall be taxable only in that State, regardless of where the income arises.

Article 13. EMPLOYER'S PAYMENTS

A permanent resident of one Contracting State who does not have a permanent representation in the other Contracting State under the conditions specified in article 4, paragraph 2, or who carries on an activity specified in article 6 as an employer, shall be exempt from payment in that other State of the taxes which an employer is obliged to pay under the laws of that other State in respect of salaries paid by him. This provision shall also apply to social security payments treated as taxes under the laws of that other State.

Article 14. ELIMINATION OF DOUBLE TAXATION

1. In the case of the USSR, double taxation shall be eliminated in accordance with the laws of the USSR.

2. In the case of Finland, double taxation shall be eliminated in the following manner:

If a permanent resident of Finland has income which may be taxed in the USSR in accordance with the provisions of this Agreement, an amount equivalent to the tax paid in respect of income in the USSR shall be deducted from the tax payable on that person's income in Finland.

The amount of the deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to the income taxable in the USSR.

Article 15. NON-DISCRIMINATION

One Contracting State shall not be entitled to levy on a permanent resident of the other Contracting State taxes which are higher or more burdensome than the taxes which that State would levy on a permanent resident of a third State with which it had not concluded an agreement for the avoidance of double taxation.

Article 16. SETTLEMENT OF DISPUTES

1. Where a permanent resident of one 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 Agreement, he may, irrespective of the remedies provided by the domestic laws of those States, present his case to the competent authority of the State of which he is a permanent resident. The case must be presented within three years from the date when the person was notified of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority to which the case has been presented shall endeavour, if it finds the objection 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 Agreement. In the event that an agreement is reached, taxes shall be imposed, refund or credit of taxes shall be allowed and fiscal privileges shall be granted in accordance with the agreement reached. Any agreement reached shall be implemented notwithstanding any time-limits in the domestic laws of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

Article 17. 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 Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement in so far as the taxation thereunder is not contrary to the Agreement. Any information received by a Contracting State shall be treated in the same manner as information obtained under the domestic laws of that State and may be disclosed only to persons or authorities involved in the application of the Agreement.

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 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, industrial, business or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.

Article 18. ENTRY INTO FORCE

1. This Agreement shall be subject to ratification; the exchange of the instruments of ratification shall take place at Helsinki as soon as possible.

2. The Agreement shall enter into force on the thirtieth day following the exchange of the instruments of ratification, and its provisions shall have effect:

- (a) With regard to taxes withheld at source—in respect of income received on or after 1 January 1987;
- (b) With regard to other taxes—in respect of tax years starting on or after 1 January 1987.

3. The Agreement between the Republic of Finland and the Union of Soviet Socialist Republics concerning taxation of 15 April 1977¹ and the Protocol thereto of 27 September 1983² shall cease to have effect:

- (a) With regard to taxes withheld at source—in respect of income received on or after 1 January 1987;
- (b) With regard to other taxes—in respect of tax years starting on or after 1 January 1987.

¹ United Nations, *Treaty Series*, vol. 1218, p. 273.

² *Ibid.*, vol. 1411, p. 405.

4. The provisions of this Agreement shall not affect the validity and application of the Agreement between the Government of the Republic of Finland and the Government of the Union of Soviet Socialist Republics on the reciprocal exemption of the airlines and their personnel from taxes and social security payments concluded on 5 May 1972.¹ In the event of the termination of the latter Agreement, the Governments of the Contracting States undertake to begin negotiations as soon as possible in order to ensure that the tax status of the said airlines and their personnel is not adversely affected.

Article 19. TERMINATION OF THE AGREEMENT

This Agreement shall remain in force until one of the Contracting States denounces it. Either Contracting State may denounce the Agreement, five years after the date of its entry into force, by giving notice of its denunciation through the diplomatic channel at least six months before the end of any calendar year. In such cases the Agreement shall cease to have effect:

- (a) With regard to taxes withheld at source—in respect of income received on or after 1 January of the calendar year following the year in which notification of denunciation was transmitted;
- (b) With regard to other taxes—in respect of tax years beginning on or after 1 January of the calendar year following the year in which notification of denunciation was transmitted.

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

DONE in Moscow on 6 October 1987, in duplicate in the Finnish and Russian languages, both texts being equally authentic.

For the Government of the Republic of Finland:

ILKKA SUOMINEN

For the Government of the Union of Soviet Socialist Republics:

GOSTEV

¹ United Nations, *Treaty Series*, vol. 861, p. 69.

PROTOCOL

At the time of signing the Agreement between the Government of the Republic of Finland and the Government of the Union of Soviet Socialist Republics for the avoidance of double taxation with respect to taxes on income, an understanding was reached on the following:

1. In the application of article 4, paragraph 2, of the Agreement, the time of the commencement and conclusion of the activity referred to therein shall be determined by the dates established jointly by the representatives of the client and the contractor in a protocol or other agreement specified in the terms of the contract.

2. In the application of article 7, paragraph 1, of the Agreement, it shall be understood that its provisions shall not affect the taxation of a body corporate in respect of the profits from which dividends are paid.

3. In the application of article 10 of the Agreement, if the ownership of shares or other corporative rights entitles the owner of the shares or corporative rights to dispose of immovable property owned by the company, the profits received from the sale or exchange of such shares or corporative rights, as well as the income received from the direct use, letting or use in any other form of such right of disposal, may be taxed in the Contracting State in which the said immovable property is located.

This Protocol shall constitute an integral part of the Agreement between the Government of the Republic of Finland and the Government of the Union of Soviet Socialist Republics for the avoidance of double taxation with respect to taxes on income.

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

DONE in Moscow on 6 October 1987, in duplicate in the Finnish and Russian languages, both texts being equally authentic.

For the Government of the Republic of Finland:

ILKKA SUOMINEN

For the Government of the Union of Soviet Socialist Republics:

GOSTEV
