75 (1995) Nr. 1

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1996 Nr. 60

A. TITEL

Verdrag tussen het Koninkrijk der Nederlanden en de Republiek Finland tot het vermijden van dubbele belasting en het voorkomen van het ontgaan van belasting met betrekking tot belastingen naar het inkomen en naar het vermogen, met Protocol;
Helsinki, 28 december 1995

B. TEKST

Agreement between the Kingdom of the Netherlands and the Republic of Finland for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital

The Government of the Kingdom of the Netherlands and the Government of the Republic of Finland,

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

Have agreed as follows:

CHAPTER I

SCOPE OF THE AGREEMENT

Article 1

Personal Scope

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

Article 2

Taxes Covered

1. This Agreement shall apply to taxes on income and on capital imposed on behalf of a Contacting 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 amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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

a) in Finland:

(i) the state income taxes (valtion tuloverot; de statliga inkomstskatterna);

(ii) the corporate income tax (yhteisöjen tulovero; inkomstskatten för samfund);

(iii) the communal tax (kunnallisvero; kommunalskatten);

(iv) the church tax (kirkollisvero; kyrkoskatten);

(v) the tax withheld at source from interest (korkotulon lähdevero; källskatten på ränteinkomst);

(vi) the tax withheld at source from non-residents' income (lähdevero; källskatten); and

(vii) the state capital tax (valtion varallisuusvero; den statliga förmögenhetsskatten);

(hereinafter referred to as ''Finnish tax'');

b) in the Netherlands:

(i) the income tax (de inkomstenbelasting);

(ii) the wages tax (de loonbelasting);

(iii) the company tax (de vennootschapsbelasting), including the Government share in the net profits of the exploitation of natural resources levied pursuant to the Mijnwet 1810 (the Mining Act of 1810) with respect to concessions issued from 1967, or pursuant to the Mijnwet Continentaal Plat 1965 (the Netherlands Continental Shelf Mining Act of 1965);

(iv) the dividend tax (de dividendbelasting); and

(v) the capital tax (de vermogensbelasting);

(hereinafter referred to as ''Netherlands tax'').

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

CHAPTER II

DEFINITIONS

Article 3

General Definitions

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

a) the term ''a Contracting State'' means the Netherlands or Finland, as the context requires; the term ''the Contracting States'' means the Netherlands and Finland;

b) 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 for and exploitation of the natural resources of the sea bed and its sub-soil and of the superjacent waters may be exercised;

c) the term ''Netherlands'' means the part of the Kingdom of the Netherlands that is situated in Europe, including its territorial sea, and any area beyond the territorial sea within which the Netherlands, in accordance with international law, exercises jurisdiction or sovereign rights with respect to the sea bed, its sub-soil and its superjacent waters, and their natural resources;

d) the term ''person'' includes an individual, a company and any other body of persons;

e) the term ''company'' means any body corporate or any entity which is treated as a body corporate for tax purposes;

f) the terms ''enterprise of a Contracting State'' and ''enterprise of the other Contracting State'' mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

g) the term ''national'' means:

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

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

h) 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;

i) the term ''competent authority'' means:

(i) in Finland, the Ministry of Finance, its authorised representative or the authority which, by the Ministry of Finance, is designated as competent authority;

(ii) in the Netherlands, the Minister of Finance or his authorised representative.

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

Article 4

Residence

1. For the purposes of this Agreement, 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, place of incorporation (registration) or any other criterion of a similar nature. However, the term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are 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 on both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;

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

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

4. A Contracting State, a political subdivision or a statutory body or a local authority thereof, as well as a pension fund established in a Contracting State and exempt by reason of its nature as such in that State from taxes covered by Article 2 of the Agreement shall be deemed to be a resident of that State.

Article 5

Permanent Establishment

1. For the purposes of this Agreement, 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, an oil or gas well, 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 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, 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, 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 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.

CHAPTER III

TAXATION OF INCOME

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

Article 7

Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other

Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

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

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

4. 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.

5. 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.

6. 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.

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. If that State according to its legislation cannot tax the whole of the profits, those profits shall be taxable only in the Contracting State of which the enterprise is a resident.

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 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

Associated Enterprises

1. Where

a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

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

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly. It is understood, however, that the fact that associated enterprises have concluded arrangements, such as cost-sharing arrangements or general services agreements, for or based on the allocation of executive, general administrative, technical and commercial expenses, research and development expenses and other similar expenses, is not in itself a condition as meant in the preceding sentence.

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 profits which would have accrued 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 Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

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 if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

3. Notwithstanding the provisions of paragraph 2, the Contracting State of which the company is a resident shall not levy a tax on dividends paid by that company to a company the capital of which is wholly or partly divided into shares and which is a resident of the other Contracting State and holds directly at least 5 per cent of the capital of the company paying the dividends, or to a pension fund referred to in paragraph 4 of Article 4, if the recipient is the beneficial owner of the dividends and of the shares or other corporate rights giving right to the dividends.

4. Notwithstanding the provisions of paragraph 1, 2 and 3, as long as an individual resident in Finland is entitled to a tax credit in respect of dividends paid by a company resident in Finland, dividends paid by a company which is a resident of Finland to a resident of the Netherlands shall be taxable only in the Netherlands if the recipient is the beneficial owner of the dividends and of the shares or other corporate rights giving right to the dividends.

5. The competent authorities of the Contracting State shall by mutual agreement settle the mode of application of paragraphs 2, 3 and 4.

6. The provisions of paragraphs 2, 3 and 4 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

7. The term ''dividends'' as used in this Article means income from shares, or other rights participating in profits, as well as income from debt-claims participating in profits and 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.

8. The provisions of paragraphs 1, 2, 3 and 4 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.

9. 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 to company's undistributed prof-

its 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 if such resident is the benificial owner of the interest.

2. The term ''interest'' as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, but 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 attachting to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

3. The provisions of paragraph 1 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.

4. Interest shall be deemed to arise in a Contracting State when the payer is 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.

5. 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 Agreement.

Article 12

Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if such resident is the beneficial owner of the royalties.

2. The term ''royalties'' as used in this Article means payments of any kind received as a consideration

a) 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;

b) for the use of, or the right to use, any patent, trade mark, design or model, plan, secret formula or process;

c) for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 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.

4. Royalties shall be deemed to arise in a Contracting State when the payer is 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.

5. 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 Agreement.

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. 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. If that State according to its legislation cannot tax the whole of the gains, the gains shall be taxable only in the Contracting State of which the alienator is a resident. For the purposes of this paragraph, the provisions of paragraph 2 of Article 8 shall apply.

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

5. The provisions of paragraph 4 shall not affect the right of a Contracting State to levy according to its own law a tax on gains from the alienation of shares or ''jouissance'' rights in a company, the capital of which is wholly or partly divided into shares and which under the laws of that State is a resident thereof, derived by an individual who is a resident of the other Contracting State and has been a resident of the first-mentioned State in the course of the last five years preceding the alienation of the shares or ''jouissance'' rights.

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. 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 commencing or ending in the calendar year concerned, and

b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and

c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived by an enterprise of a Contracting State in respect of an employment exercised aboard a ship or aircraft operated in international traffic shall be taxable only in that State.

Article 16

Directors' fees

Directors' fees and other 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 Sportsmen

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 a sportsman, 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 a sportsman in his capacity as such accrues not to the entertainer or sportsman 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 sportsman are exercised.

Article 18

Pensions, Annuities and social security payments

1. Subject to the provisions of paragraph 3 of this Article and of paragraph 2 of Article 19, pensions and other similar remuneration in consideration of past employment, and any annuities, 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 pensions and other similar remuneration in consideration of past employment exercised in the other Contracting State, and annuities arising in that State, may also be taxed in that State and according to the laws of that State, but if the payment is of a periodic nature the tax so charged shall not exceed 20 per cent of the gross amount of the payment.

3. Any pension paid and other payment made under the rules of a social security system of a Contracting State to a resident of the other Contracting State shall be taxable only in the first-mentioned State.

4. The term ''annuity'' as used in this Article means a stated sum payable periodically at stated times during life, or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth (other than services rendered).

Article 19

Government Service

1. a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State, or a political subdivision or a statutory body or a local authority thereof, to an individual in respect of services rendered to that State or subdivision or body or authority shall be taxable only in that State.

b) However, such salaries, wages and other similar 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 political subdivision or a statutory body or a local authority thereof to an individual in respect of services rendered, to that State or subdivision or body or authority shall be taxable only in that State.

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

3. The provisions of Articles 15, 16 and 18 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State, or a political subdivision or a statutory body or a local authority thereof.

Article 20

Students and Trainees

1. Payments which a student or business, technical, agricultural or forestry trainee who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

2. A student at a university or other institution for higher education in a Contracting State, or a business, technical, agricultural or forestry trainee 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 continuous period not exceeding 183 days, 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 21

Other Income

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

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined 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.

CHAPTER IV

TAXATION OF CAPITAL

Article 22

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. If that State according to its legislation cannot tax the whole of the capital, the capital shall be taxable only in the Contracting State of which the enterprise is a resident. For the purposes of this paragraph, the provisions of paragraph 2 of Article 8 shall apply.

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

CHAPTER V

METHODS FOR ELIMINATION OF DOUBLE TAXATION

Article 23

Elimination of double taxation

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

a) Where a resident of Finland derives income or owns capital which, in accordance with the provisions of this Agreement, may be taxed in the Netherlands, Finland shall, subject to the provisions of subparagraph b), allow:

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

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

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 the Netherlands.

b) Dividends paid by a company being a resident of the Netherlands to a company which is a resident of Finland and which controls directly at least 10 per cent of the voting power in the company paying the dividends shall be exempt from Finnish tax.

2. In the Netherlands double taxation shall be eliminated as follows:

a) The Netherlands, when imposing tax on its residents, may include in the basis upon which such taxes are imposed the items of income or capital which, according to the provisions of the Agreement, may be taxed in Finland.

b) However, where a resident of the Netherlands derives items of income or owns items of capital which according to Article 6, Article 7, paragraph 8 of Article 10, paragraph 3 of Article 11, paragraph 3 of Article 12, paragraphs 1 and 2 of Article 13, Article 14, paragraph 1 of Article 15, paragraph 2 of Article 21 and paragraphs 1 and 2 of Article 22 may be taxed in Finland and are included in the basis referred to in sub-paragraph a) of this paragraph, the Netherlands shall exempt such items of income or capital by allowing a reduction of its tax. This reduction shall be computed in conformity with the provisions of Netherlands law for the avoidance of double taxation. For that purpose the said items of income or capital shall be deemed to be included in the total amount of the items of income or capital which are exempt from Netherlands tax under those provisions.

c) Further, the Netherlands shall allow a deduction from the Netherlands tax so computed for the items of income which according to paragraph 2 of Article 10, paragraph 5 of Article 13, Article 16, Article 17 and paragraph 2 of Article 18 may be taxed in Finland to the extent that these items are included in the basis referred to in sub-paragraph a) of this paragraph. The amount of this deduction shall be equal to the tax paid in Finland on these items of income, but shall not exceed the amount of the reduction which would be allowed if the items of income so included were the sole items of income which are exempt from Netherlands Tax under the provisions of Netherlands law for the avoidance of double taxation.

3. Where in accordance with any provisions of the Agreement 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.

CHAPTER VI

SPECIAL PROVISIONS

Article 24

Offshore activities

1. Notwithstanding any other provision of this Agreement, the provisions of this Article shall apply to offshore activities, except for a person who carries out those activities through a permanent establishment under the provisions of Article 5 or a fixed base under the provisions of Article 14. In case the provisions of this Article do not apply only the other provisions of the Agreement shall apply.

2. In this Article the term ''offshore activities'' means activities which are carried on offshore in connection with the exploration or exploitation of the sea bed and its subsoil and their natural resources, situated in one of the States.

3. An enterprise of a Contracting State which carries on offshore activities in the other Contracting State shall, subject to paragraph 4, be deemed to be carrying on, in respect of those activities, business in that other State through a permanent establishment situated therein, unless the offshore activities in question are carried on in the other State for a period or periods not exceeding in the aggregate 30 days in any twelve-month period.

For the purpose of this paragraph:

a) where an enterprise carrying on offshore activities in the other Contracting State is associated with another enterprise and that other enterprise continues, as part of the same project, the same offshore activities that are or were being carried on by the first-mentioned enterprise, and the afore-mentioned activities carried on by both enterprises – when added together – exceed a period of 30 days, then each enterprise shall be deemed to be carrying on its activities for a period exceeding 30 days in a twelve-month period;

b) an enterprise shall be regarded as associated with another enterprise if one holds directly or indirectly at least one third of the capital of the other enterprise or if a person holds directly or indirectly at least one third of the capital of both enterprises.

4. However, for the purpose of paragraph 3, the term ''offshore activities'' shall be deemed not to include:

a) any activities or any combination of activities mentioned in paragraph 4 of Article 5;

b) towing or anchor handling by ships primarily designed for that purpose and any other activities performed by such ships;

c) the transport of supplies or personnel by ships or aircraft in international traffic.

5. A resident of a Contracting State who carries on offshore activities in the other Contracting State, which consist of professional services or other activities of an independent character, shall be deemed to be performing those activities from a fixed base in the other State if the offshore activities in question last for a continuous period of 30 days or more.

6. Salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment connected with offshore activities carried on through a permanent establishment in the other Contracting State may, to the extent that the employment is exercised offshore in that other State, be taxed in that other State.

7. Where documentary evidence is produced that tax has been paid in Finland on the items of income which may be taxed in Finland according to Article 7 or Article 14 in connection with paragraph 3 or paragraph 5 of this Article, or paragraph 6 of this Article, the Netherlands shall allow a reduction of its tax which shall be computed in conformity with the rules laid down in sub-paragraph b) of paragraph 2 of Article 23.

Article 25

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, in particular with respect to residence, 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 5 of Article 11, or paragraph 5 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. Contributions paid by, or on behalf of, an individual who is a resident of a Contracting State and who is not a national of that State, to a pension plan that is recognised for tax purposes in the other Contracting State will be treated in the same way for tax purposes in that first-mentioned State as a contribution paid to a pension plan that is recognised for tax purposes in that first-mentioned State, provided that

a) such individual was contributing to such pension plan before he became a resident of the first-mentioned State; and

b) the competent authority of the first-mentioned State agrees that the pension plan corresponds to a pension plan recognised for tax purposes by that State.

6. The competent authorities of the Contracting State may by mutual agreement prescribe conditional rules concerning the application of the provisions of paragraph 5.

7. For the purpose of paragraph 5, ''pension plan'' includes a pension plan created under a public social security system.

8. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 26

Mutual agreement procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

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 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 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.

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 the preceding paragraphs.

Article 27

Exchange of information

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 insofar as the taxation thereunder is not contrary to the Agreement. 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 Agreement. 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.

Article 28

Assistance in recovery

1. The Contracting States agree to lend each other assistance and support with a view to collection, in accordance with their respective laws and administrative practice, of the taxes to which this Agreement shall apply and of any increases, surcharges, overdue payments, interests and costs pertaining to the said taxes.

2. At the request of the applicant State the requested State shall recover tax claims of the first-mentioned State in accordance with the law and administrative practice for the recovery of its own tax claims.

However, such claims do not enjoy any priority in the requested State and cannot be recovered by imprisonment for debt of the debtor. The requested State is not obliged to take any executory measures which are not provided for in the laws of the applicant State.

3. The provisions of paragraph 2 shall apply only to tax claims which form the subject of an instrument permitting their enforcement in the applicant State and, unless otherwise agrees between the competent authorities of the Contracting States, which are not contested. However, where the claim relates to a liability to tax of a person as a non-resident of the applicant State, paragraph 2 shall only apply, unless otherwise agreed between the competent authorities of the Contracting States, where the claim may no longer be contested.

4. The obligation to provide assistance in the recovery of tax claims concerning a deceased person or his estate is limited to the value of the estate or the property acquired by each beneficiary of the estate, according to whether the claim is to be recovered from the estate or from the beneficiaries thereof.

5. The requested State shall not be obliged to accede to the request:
a) if the applicant State has not pursued all means available in its own territory, except where recourse to such means would give rise to disproportionate difficulty;
b) if and insofar as it considers the tax claim to be contrary to the provisions of this Agreement or of any other treaty to which both Contracting States are parties.

6. The request for administrative assistance in the recovery of a tax claim shall be accompanied by:
a) a declaration that the tax claim concerns a tax to which the Agreement applies and, subject to paragraph 3, is not or may not be contested;
b) an official copy of the instrument permitting enforcement in the applicant State;
c) any other document required for recovery;
d) where appropriate, a certified copy confirming any related decision emanating from an administrative body or a public court.

7. The applicant State shall indicate the amount of the tax claim to be recovered in both the currency of the applicant State and the currency of the requested State. The rate of exchange to be used for the purpose of the preceding sentence is the latest rate recommended by the Central Bank of the applicant State. Any amount recovered by the requested State shall be transferred to the applicant State in the currency of the requested State. The transfer shall be effected within a period of three months from the date of the recovery.

8. At the request of the applicant State, the requested State shall, with a view to the recovery of an amount of tax, take measures of conservancy even if the claim is contested or is not yet the subject of an instru-

ment permitting enforcement, insofar as that is permitted by the laws and administrative practice of the requested State.

9. The instrument permitting enforcement in the applicant State shall, where appropriate and in accordance with the provisions in force in the requested State, be accepted, recognised, supplemented or replaced as soon as possible after the date of the receipt of the request for assistance by an instrument permitting enforcement in the requested State.

10. Questions concerning any period byond which a tax claim cannot be enforced shall be governed by the law of the applicant State. The request for assistance in the recovery shall give particulars concerning that period.

11. Acts of recovery carried out by the requested State in pursuance of a request for assistance, which, according to the laws of that State, would have the effect of suspending or interrupting the period mentioned in paragraph 10, shall also have this effect under the laws of the applicant State. The requested State shall inform the applicant State about such acts.

12. The requested State may allow deferral of payment or payment by instalments, if its laws or administrative practice permit it to do so in similar circumstances; but is shall first inform the applicant State.

13. The competent authorities of the Contracting States shall by mutual agreement determine rules concerning minimum amounts of tax claims subject to a request for assistance and other provisions concerning the mode of application of this Article.

14. The Contracting States shall reciprocally waive any restitution of costs resulting from the respective assistance and support which they lend each other in applying this Agreement.

Article 29

Limitation of Articles 27 and 28

In no case shall the provisions of Articles 27 and 28 be construed so as to impose on one of the States the obligation:

a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other 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 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 30

Members of Diplomatic missions and consular posts

1. Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

2. For the purposes of the Agreement an individual, who is a member of a diplomatic mission or consular post of a Contracting State in the other Contracting State or in a third State and who is a national of the sending State, shall be deemed to be a resident of the sending State if he is submitted therein to the same obligation in respect of taxes on income and on capital as are residents of that State.

3. The Agreement shall not apply to international organisations, organs and officials thereof and members of a diplomatic mission or consular post of a third State, being present in a Contracting State, if they are not subjected therein to the same obligations in respect of taxes on income or on capital as are residents of that State.

Article 31

Territorial extension

1. This Agreement may be extended, either in its entirety or with any necessary modifications, to either or both of the countries of the Netherlands Antilles or Aruba, if the country concerned imposes taxes substantially similar in character to those to which the Agreement applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed in notes to be exchanged through diplomatic channels.

2. Unless otherwise agreed, the termination of the Agreement shall not also terminate any extension of the Agreement to any country to which it has been extended under this Article.

CHAPTER VII

FINAL PROVISIONS

Article 32

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 Agreement have been complied with.

2. The Agreement shall enter into force fifteen days after the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect:

a) in respect of taxes withheld at source, on income derived on or after the first day of January in the calendar year next following that in which the Agreement enters into force;

b) in respect of taxes, other than those referred to in sub-paragraph a), for taxable periods beginning on or after the first day of January in the calendar year next following that in which the Agreement enters into force.

3. The Agreement between the Kingdom of the Netherlands and the Republic of Finland for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, signed at Helsinki on 13 March 1970, (hereinafter referred to as ''the 1970 Agreement'') shall cease to have effect with respect to taxes to which this Agreement applies in accordance with the provisions of paragraph 2. The 1970 Agreement shall terminate on the last date on which it has effect in accordance with the foregoing provision of this paragraph.

Article 33

Termination

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, 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 Agreement enters into force. In such event, the Agreement shall cease to have effect:

a) in respect of taxes withheld at source, on income derived on or after the first day of January in the calendar year next following that in which the notice of termination is given;

b) in respect of taxes, other than those referred to in sub-paragraph a), for taxable periods beginning on or after the first day of January in the calendar year next following that in which the notice of termination is given.

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

DONE in duplicate at Helsinki this 28th day of December 1995, in the English language.

For the Government of the Kingdom of the Netherlands

(sd.) B. DE BRUYN OUBOTER

For the Government of the Republic of Finland

(sd.) I. VIINANEN

Protocol

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

I. Ad Article 2

It is understood that the term ''taxes'' does not include social insurance contributions.

II. Ad Articles 4 and 23

1. Where under the provisions of the Agreement a resident of the Netherlands is exempt or entitled to relief from Finnish tax, similar exemption or relief shall be applied to the undistributed estates of deceased persons insofar as one or more of the beneficiaries is a resident of the Netherlands.

2. Insofar as the income on the property of an undistributed estate of a deceased person under the provisions of the Agreement is subject to Finnish tax and accrues to a beneficiary who is a resident of the Netherlands, the Netherlands shall allow a deduction in conformity with sub-paragraph b) or c) of paragraph 2 of Article 23 of the Agreement.

III. Ad Articles 5, 6, 13 and 22

It is understood that exploration and exploitation rights of the sea bed and its subsoil and their natural resources include rights to interests in, or to the benefits of, assets to be produced by such exploration or exploitation. Furthermore, it is understood that the aforementioned rights shall be regarded as immovable property situated in the Contracting State the sea bed and sub-soil of which they are related to, and that these rights shall be deemed to pertain to the property of a permanent establishment in that State.

IV. Ad Articles 6, 13 and 22

Income from shares or other corporate rights in, other than dividends paid by, a residential-housing company referred to in the Residential-Housing Companies Act of 17 May 1991 (No. 809 of 1991), or any other Finnish company similar in character, or gains derived from the alienation of, or capital represented by, such shares or rights may be taxed in the Contracting State in which the immovable property held by the company is situated.

V. Ad Article 7

In respect of paragraphs 1 and 2 of Article 7, where an enterprise of a Contracting State sells goods or merchandise or carries on business in the other Contracting State through a permanent establishment situated therein, the profits of that permanent establishment shall not be determined on the basis of the total amount received by the enterprise, but shall be determined only on the basis of the remuneration which is attributable to the actual activity of the permanent establishment for such sales or business. Especially, in the case of contracts for the survey, supply, installation or construction of industrial, commercial or scientific equipment or premises, or of public works, when the enterprise has a permanent establishment, the profits of such permanent establishment shall not be determined on the basis of the total amount of the contract, but shall be determined only on the basis of that part of the contract which is effectively carried out by the permanent establishment in the Contracting State where the permanent establishment is situated. The profits related to that part of the contract which is carried out by the head office of the enterprise shall be taxable only in the Contracting State of which the enterprise is a resident.

VI. Ad Article 10

Finnish tax law provides for the elimination of economic double taxation of profits derived by resident companies by entitling resident shareholders to a tax credit in respect of dividends paid by such companies equal to one-third of the dividends paid to the shareholders. Where, such dividends have not borne corporate income tax at an amount not less than one-third of the profits distributed, inter alia, as a result of foreign dividends derived by the distributing company and being exempt from that tax, the company is liable to a compensatory tax (täydennysvero; kompletteringsskatt) corresponding to the amount by which the above-mentioned amount exceeds the actually payable amount of corporate income tax. Notwithstanding this general rule, compensatory tax is not payable to the extent that the company for the tax year concerned re-distributes foreign dividends and the recipient of the dividends is a company resident in the Netherlands not directly or indirectly control-

led by persons resident in Finland that has at the end of the same tax year directly owned not less than 25 per cent of the capital of the company paying the dividends.

VII. Ad Articles 10, 11 and 12

Where tax has been withheld at source in excess of the maximum amount of tax referred to in Articles 10, 11 or 12, applications for the refund of the excess amount of tax have to be lodged with the competent authority of the Contracting State in which the tax has been withheld, within a period of five years after the expiration of the calendar year in which the tax has been withheld.

VIII. Ad Article 16

1. In the case of a company which is a resident of Finland, the expression ''any other similar organ of a company'' includes the supervisory board (''hallintoneuvosto'', ''förvaltningsråd'') within the meaning of Finnish company law.

2. In the case of a company which is a resident of the Netherlands, the expression ''member of the board of directors or any other similar organ of a company'' includes a ''bestuurder'' or ''commissaris'' within the meaning of Netherlands company law.

IX. Ad Article 18

Where a person, who is a resident of a Contracting State on the date on which the Agreement comes into effect, continues after that date to derive a pension or other similar remuneration in consideration of past employment, or an annuity, referred to in paragraph 1 of Article 18, or a pension paid under the social insurance legislation of the other Contracting State, referred to in paragraph 3 of that Article, the right to which existed before that date, such income shall be taxable only in the first-mentioned State.

X. Ad Article 20, paragraph 2

It is understood that the expression ''remuneration constituting earnings necessary for his maintenance'' means,

a) in the case of Finland, the amounts of exempted salary or wages derived by non-resident students or trainees and fixed from time to time by the National Board of Taxes (''verohallitus; skattestyrelsen'') under the provisions of section 6, sub-section 2, of the Act on the Taxation of Nonresidents' Income and Capital of 11 August 1978 No. 627; (laki rajoitetusti verovelvollisen tulon ja varallisuuden verottamisesta; lag om beskattning av begränsat skattskyldig för inkomst och förmögenhet), as

amended from time to time without affecting the general principle thereof, or any other provisions which may be enacted after the date of signature of the Agreement being of a substantially similar character.

b) in the case of the Netherlands, an amount equal to twice the basic personal allowance (''basisaftrek'') referred to in the Income Tax Act 1964 (Wet op de inkomstenbelasting 1964), as amended from time to time without affecting the general principle thereof, or any other provisions which may be enacted after the date of signature of the Agreement being of a substantially similar character.

XI. Ad Article 23

It is understood that for the computation of the reduction mentioned in subparagraph b) of paragraph 2 of Article 23, the items of capital referred to in paragraph 1 of Article 22 shall be taken into account for the value thereof reduced by the value of the debts secured by mortgage on that capital, and the items of capital referred to in paragraph 2 of Article 22 shall be taken into account for the value thereof reduced by the value of the debts pertaining to the permanent establishment or fixed base.

XII. Ad Article 26

If, in an Agreement for the avoidance of double taxation that is subsequently concluded between Finland and a third State being a member of the Organisation for Economic Co-operation and Development, there are included provisions on arbitration, the Government of the Republic of Finland shall without undue delay inform the Government of the Kingdom of the Netherlands in writing through the diplomatic channel and shall enter into negotiations with the Government of the Kingdom of the Netherlands with a view to including such provisions in the Agreement signed today with the Netherlands.

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

DONE in duplicate at Helsinki this 28th day of December 1995, in the English language.

For the Government of the Kingdom of the Netherlands

(sd.) B. DE BRUYN OUBOTER

For the Government of the Republic of Finland

(sd.) I. VIINANEN

D. PARLEMENT

Het Verdrag, met Protocol, behoeft ingevolge artikel 91 van de Grondwet de goedkeuring der Staten-Generaal, alvorens het Koninkrijk aan Verdrag en Protocol kan worden gebonden.

G. INWERKINGTREDING

De bepalingen van Verdrag en Protocol zullen ingevolge artikel 32, tweede lid, van het Verdrag, juncto de preambule tot het Protocol, in werking treden vijftien dagen na de datum van de laatste der mededelingen door de Verdragsluitende Partijen dat aan hun grondwettelijk vereiste procedures is voldaan.

J. GEGEVENS

Van het op 13 maart 1970 te Helsinki tot stand gekomen Verdrag tussen het Koninkrijk der Nederlanden en de Republiek Finland tot het vermijden van dubbele belasting en het voorkomen van het ontgaan van belasting met betrekking tot belastingen naar het inkomen en naar het vermogen, naar welk Verdrag wordt verwezen in artikel 32 van het onderhavige Verdrag, zijn de Nederlandse en de Finse tekst geplaatst in *Trb.* 1970, 63; zie ook *Trb.* 1971, 86.

Uitgegeven de *twaalfde* februari 1996.

De Minister van Buitenlandse Zaken,

H. A. F. M. O. VAN MIERLO

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