

FINLAND - BRAZIL CONVENTION

Date of Conclusion: 2 April 1996
Effective Date: 1 January 1998

AGREEMENT BETWEEN THE FEDERATIVE REPUBLIC OF BRAZIL AND THE REPUBLIC OF FINLAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the Federative Republic of Brazil
and
The Government of the Republic of Finland,

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

Have agreed as follows:

ARTICLE I Personal Scope

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

ARTICLE 2 Taxes Covered

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

a) in Brazil:

- the federal income tax, (imposto sobre a renda e proventos de qualquer natureza);
(hereinafter referred to as "Brazilian tax");

b) in Finland:

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

ii) the corporate income tax (yhteisöen tulovero; inkomstskatten for samfund);

iii) the communal tax (kunnallisvero; kommunalskatten);

iv) the church tax (kirkollisvero; kyrkoskatten);

v) the tax withheld at source from interest (korkotulon l?devero; kallskatten pa ranteinkomst); and

vi) the tax withheld at source from non-residents' income (rajoitetusti verovelvollisen l?devero; kallskatten for begr?sat skattskyldig); (hereinafter referred to as "Finnish tax").

2. The Agreement shall apply also to any identical or substantially similar taxes that 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 that have been made in their respective taxation laws.

ARTICLE 3
General Definitions

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

a) the term "Brazil" means the continental and insular territory of the Federative Republic of Brazil, including its territorial sea, as defined by the United Nations Convention on the Law of the Sea, and the corresponding sea bed and sub-soil, as well as any maritime area beyond the territorial sea, including the sea bed and the sub-soil to the extent that in that area Brazil in accordance with international law exercises rights with respect to the exploration and exploitation of the natural resources;

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 subsoil and of the superjacent waters may be exercised;

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

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 all enterprise carried on by a resident of a Contracting State and all 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 or 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 of 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 Brazil, the Minister of Finance, the Secretary of Federal Revenue or their authorised representatives;

ii) in Finland, the Ministry of Finance, its authorised representative or the authority which by the Ministry of Finance is designated as competent authority.

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 effective management 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.

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

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

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

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

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

2. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall settle the question by mutual agreement and determine the mode of application of this Agreement to such person.

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 6 (six) 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.

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.

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 property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources,

c) Ships and aircraft shall not be regarded as immovable property.

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

4. Where the ownership of shares or other corporate rights in a company entitles the owner of such shares or corporate rights to the enjoyment of immovable property held by the company, the income from the direct use, letting, or use in any other form of such right to enjoyment may be taxed in the Contracting State in which the immovable property is situated.

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

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.
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. Where profits include items of income that 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 of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.
2. 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

Where

- a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

ARTICLE 10
Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State. 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 10% (ten per cent) of the gross amount of the dividends.

2. Notwithstanding the provisions of paragraph 1, as long as under Finnish taxation law 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 Brazil shall be taxable only in Brazil if the recipient is the beneficial owner of the dividends.

3. The provisions of paragraphs 1 and 2 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

4. The term "dividends" as used in this Article means income from shares, or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

5. The provisions of paragraphs 1 and 2 shall not apply if the 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, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such a case the provisions of Article 7 shall apply.

6. Where a resident of Finland has a permanent establishment in Brazil, that permanent establishment may be subject to a tax withheld at source in accordance with Brazilian law. However, such tax shall not exceed 10% (ten per cent) of the gross amount of the profits of that permanent establishment determined after the payment of the corporate tax related to such profits.

7. 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 situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

ARTICLE 11

Interest

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

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 15% (fifteen per cent) of the gross amount of the interest.

3. Notwithstanding the provisions of paragraphs 2:

a) interest arising in Brazil shall be exempt from Brazilian tax if the interest is paid to;

i) the State of Finland or a local authority thereof;

ii) the Bank of Finland;

iii) any agency (including a financial institution) wholly owned by the Government of Finland, or a statutory body (personne morale de droit public) or a local authority thereof;

b) interest arising in Finland shall be exempt from Finnish tax if the interest is paid to the Government of Brazil, a political subdivision or a local authority thereof or any agency (including a financial institution) wholly owned by that Government, political subdivision or local authority.

4. The competent authorities of the Contracting States may agree, through the mutual agreement procedure, that the provisions of paragraph 3 shall apply to any denominated institution mainly owned by the Government of a Contracting State.

5. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and, in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures.

6. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such a case the provisions of Article 7 shall apply.

7. The limitation established in paragraph 2 shall not apply to interest arising in a Contracting State and paid to a permanent establishment of an enterprise of the other Contracting State which is situated in a third State.

8. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.

9. 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 a 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 may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed:

a) 10% (ten per cent) of the gross amount of royalties arising from the use of, or the right to use, cinematograph films, and films or tapes for television or radio broadcasting, and any copyright of literary, artistic or scientific work produced by a resident of a Contracting State;

b) 25% (twenty-five per cent) of the gross amount of royalties arising from the use of, or the right to use, trade marks;

c) 15% (fifteen per cent) of the gross amount of the royalties in all other cases.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, and

films or tapes for television or radio broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such a case the provisions of Article 7 shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. 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 in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such a permanent establishment, then such royalties shall be deemed to arise in the State in which the permanent establishment is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a 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 derived by a resident of a Contracting State from the alienation of shares or other corporate rights referred to in paragraph 4 of Article 6 may be taxed in the Contracting State in which the immovable property held by the company is situated.

3. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.

4. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.

5. Gains from the alienation of any property other than that referred to in the preceding paragraphs of this Article, may be taxed in both Contracting States.

ARTICLE 14 **Independent Professional 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 the income is derived from a company which is a resident of the other Contracting State or is borne by a permanent establishment situated therein. In such a case the income may be taxed in that other State.

2. The term "professional services" includes especially independent scientific, technical, 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 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, 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 (one hundred eighty-three) days within any twelve-month period;

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 which the employer has in the other State.

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

ARTICLE 16
Director's Fees

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

ARTICLE 17
Artistes and 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 artistes, 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 and Annuities

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

2. Notwithstanding the provisions of paragraph 1, and subject to the provisions of paragraph 2 of Article 19, pensions paid and other benefits, whether of a periodic or a lump-sum or any other non-periodic nature, granted under the social security legislation of a Contracting State or under any compulsory public scheme organised by a Contracting State for social welfare purposes, or any annuity arising in that State, may be taxed in that State.

3. 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) Remuneration, other than a pension, paid by a Contracting State, or a political subdivision or a statutory body (personne morale de droit public) 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 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 (personne morale de droit public) 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 remuneration and 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 (personne morale de droit public) or a local authority thereof.

ARTICLE 20 **Students**

Payments which a student, or an apprentice 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.

ARTICLE 21 **Other Income**

Items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State. However, such items of income, arising in the other Contracting State, may also be taxed in that other State.

ARTICLE 22 **Elimination of Double Taxation**

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

a) where a resident of Brazil derives income which, in accordance with the provisions of this Agreement, may be taxed in Finland, Brazil, when applying its tax, shall allow a credit corresponding to the amount of the tax paid in Finland;

b) the amount of this credit, however, shall not exceed the part of the Brazilian tax corresponding to the participation of such income in the income which is taxable in Brazil.

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

a) where a resident of Finland derives income which, in accordance with the provisions of this Agreement, may be taxed in Brazil, Finland shall, subject to the provisions of sub-paragraph b), allow as a deduction from the tax on the income of that person an amount equal to the tax on income paid in Brazil. Such deduction shall not, however, exceed that part of the tax on the income, as computed before the deduction is given, which is attributable to the income which may be taxed in Brazil;

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

c) notwithstanding any other provision of this Agreement, an individual who is a resident of Brazil and under Finnish taxation law with respect to the Finnish taxes referred to in Article 2 also is regarded as resident in Finland may be taxed in Finland. However, Finland shall allow any Brazilian tax paid on income as a deduction from Finnish tax in accordance with the provisions of sub-paragraph "a". The provisions of this sub-paragraph shall apply only to nationals of Finland;

d) where in accordance with any provision of the Agreement income derived by a resident of Finland is exempt from tax in Finland, Finland may nevertheless, in calculating the amount of tax on the remaining income of such person, take into account the exempted income;

e) for the purposes of sub-paragraph a, the term "tax on income paid in Brazil" shall be considered as having been paid at the rate of 15% (fifteen per cent), in the case of dividends, and at the rate of 25% (twenty-five per cent), in the case of interest and royalties.

ARTICLE 23 **Non-Discrimination**

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

2. The taxation on a permanent establishment that 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. 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.

ARTICLE 24 **Mutual Agreement Procedure**

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this 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 23, to that of the Contracting

State of which he is a national. The case must be presented within 3 (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 that is not in accordance with the Agreement. In the event the competent authorities reach an agreement, taxes shall be imposed, and refund or credit of taxes shall be allowed by the Contracting States in accordance with such agreement. Any agreement reached shall be implemented within the 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. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

ARTICLE 25 **Exchange of Information**

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this 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.

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 and administrative practice of that or of the other Contracting State;

b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

ARTICLE 26 **Members of Diplomatic Missions and Consular Posts**

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.

ARTICLE 27 **Entry Into Force**

1. The Governments of the Contracting States shall notify each other that the constitutional requirements for the entry into force of this Agreement have been complied with.

2, The Agreement shall enter into force 15 (fifteen) days after the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect:

a) in Brazil:

i) in respect of taxes withheld at source on dividends, interest, royalties, and on income indicated in paragraph 6 of Article 10, to amounts paid on or after 1 January in the calendar year next following the year in which the Agreement enters into force;

ii) in respect of other taxes on income, to amounts received during the tax year beginning on or after 1 January in the calendar year next following the year in which the Agreement enters into force.

b) in Finland:

i) in respect of taxes withheld at source, on income derived on or after 1 January in the calendar year next following the year in which the Agreement enters into force;

ii) in respect of other taxes on income, for taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the Agreement enters into force.

3. The Agreement between the Government of the Federative Republic of Brazil and the Government of the Republic of Finland for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at Helsinki on 16 February 1972, as modified by the Protocol signed at Brasilia on 12 June 1989 (hereinafter referred to as "the 1972 Convention"), shall cease to have effect with respect to taxes to which this Agreement applies in accordance with the provisions of paragraph 2. The 1972 Convention shall terminate on the last date on which it has effect in accordance with the foregoing provision of this paragraph.

ARTICLE 28 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 6 (six) months before the end of any calendar year following after the period of 5 (five) years from the date on which the Agreement enters into force. In such event, the Agreement shall cease to have effect:

a) in Brazil:

i) in respect of taxes withheld at source on dividends, interest, royalties and on income indicated in paragraph 6 of Article 10, to amounts paid before the expiration of the calendar year in which the notice is given;

ii) in respect of other taxes on income, to amounts received during the tax year ending in the calendar year in which the notice is given,

b) in Finland:

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

ii) in respect of other taxes on income, for taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the notice is given.

In witness whereof the undersigned, duly authorised thereto, have signed this Agreement.

Done in Brasilia, on 2 April 1996, in duplicate, in the Portuguese, Finnish and English languages, all the texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

PROTOCOL

At the signing today of the Agreement between the Government of the Federative Republic of Brazil and the Government of the Republic of Finland for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income (hereinafter referred to as "the Agreement"), the undersigned have agreed upon the following provisions which shall form an integral part of the Agreement:

1. With reference to Article 20

A student at a university or other institution for higher education in Brazil, or an apprentice or business, technical, agricultural or forestry trainee, who is or was immediately before visiting Finland a resident of Brazil and who is present in Finland for a continuous period not exceeding 183 (one hundred eighty-three) days, shall not be taxed in Finland in respect of remuneration for services rendered in Finland, provided that the services are in connection with his studies or training and the remuneration constitutes earnings necessary for his maintenance.

2. With reference to Article 22

a) The provisions of paragraphs 1 and 2 of Article 22 shall, in relation to the rates of tax, apply only for the first 10 years for which the Agreement is effective.

b) Accordingly, the rates of tax provided for in paragraphs 1, 2 and 6 of Article 10, paragraph 2 of Article 11, and paragraph 2 of Article 12 shall apply only for the first 10 (ten) years for which the Agreement is effective.

c) However, during the first period of 10 (ten) years or any subsequent period for which the Agreement is effective in relation to sub-paragraphs "a" and "b" above, the competent authorities may, through the mutual agreement procedure, agree to extend the period for which those sub-paragraphs are effective for an additional period of at least 5 (five) years but not more than 10 (ten) years.

In witness whereof the undersigned, duly authorised thereto, have signed this Protocol.

Done in Brasilia, on April 2, 1996, in duplicate, in Portuguese, Finnish and English languages, all the texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.