

## **1998 Income Tax Agreement**

**Signed date:** *October 27, 1998*

**In force date:** *February 4, 2000*

**Effective date:** *January 1, 2001. See Article 27.*

**Status:** *In Force*

### **AGREEMENT BETWEEN THE REPUBLIC OF FINLAND AND ROMANIA FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME**

The Government of the Republic of Finland and the Government of Romania,  
Desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income,

Have agreed as follows:

#### **Article 1 Persons Covered**

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 imposed on behalf of a Contracting State or of its local authorities or administrative-territorial units, irrespective of the manner in which they are levied.

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

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

a) in Finland:

- (i) the state income taxes;
- (ii) the corporate income tax;
- (iii) the communal tax;
- (iv) the church tax;
- (v) the tax withheld at source from interest; and
- (vi) the tax withheld at source from non-residents' income; (hereinafter referred to as "Finnish tax");

b) in Romania:

- (i) the tax on income derived by individuals;
- (ii) the tax on profit;
- (iii) the tax on salaries and other similar remuneration;
- (iv) the tax on agricultural income;
- (v) the tax on dividends; and
- (vi) the tax on income derived from Romania by non-residents; (hereinafter referred to as "Romanian 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 referred to in paragraph 3. The competent authorities of the Contracting States shall notify each other of any significant changes which 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 "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;

b) the term "Romania" means Romania and, when used in a geographical sense, indicates the territory of Romania including its territorial sea, as well as the other maritime spaces (the contiguous zone, the continental shelf, the exclusive economic zone) over which it exercises sovereign rights and jurisdiction in accordance with the internal law and with international law, concerning the exploration for and the exploitation of the natural, biological and mineral resources existing in the sea waters, sea bed and sub-soil of these maritime spaces;

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

- d) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
  - e) 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;
  - f) the term "national" means:
    - (i) any individual possessing the citizenship 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;
  - g) 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;
  - h) 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 Romania, the Minister of Finance or his authorised representative.
2. As regards the application of the Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

#### **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, and also includes that State, and any statutory body or local authority or administrative- territorial unit thereof. The term, however, 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 only 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 only 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 only 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, the competent authorities of the Contracting States shall settle the question by mutual agreement and determine the mode of application of the 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 sales outlet;
  - f) a workshop; and
  - g) 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 sale of goods or merchandise belonging to the enterprise displayed in the frame of an occasional and temporary fair or exhibition where the goods or merchandise are sold no later than one month after the closing of the said fair or exhibition;
- e) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- f) 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;
- g) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to f), 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.

#### **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. 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 (other than expenses which would not be deductible if the permanent establishment were a separate enterprise) 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. 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 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. Profits of an enterprise of a Contracting State from the use, maintenance or rental of containers (including trailers, barges and related equipment for the transport of containers) used for the transport of goods or merchandise shall be taxable only in that State, except where such containers are used for the transport of goods or merchandise solely between places within the other Contracting State.
3. The provisions of paragraphs 1 and 2 shall also apply to profits from the participation in a pool, a joint business or an international operating agency, and to interest on funds related solely to the operation of ships or aircraft.

### **Article 9 Associated Enterprises**

1. Where
  - a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
  - b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.
2. Where a Contracting State includes in the profits of an enterprise of that State -- and taxes accordingly -- profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are 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. 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 beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the dividends.
2. Notwithstanding the provisions of paragraph 1, as long as an individual resident in Finland is under Finnish tax law 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 Romania shall be taxable only in Romania if such resident of Romania 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, 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.

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

#### **Article 11 Interest**

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State 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 beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2,

a) interest arising in Romania shall be taxable only in Finland if the interest is paid to:

(i) the State of Finland, or a local authority or a statutory body thereof;

(ii) the Bank of Finland;

(iii) the Finnish Fund for Industrial Co-operation Ltd (FINNFUND), or any other similar institution as may be agreed from time to time between the competent authorities of the Contracting States;

(iv) any resident of Finland in respect of a government supported credit the terms and conditions of which are determined according to the OECD Arrangement on Guidelines for Officially Supported Export Credits or any other government supported loan or credit which is governed by any similar internationally accepted guidelines for officially supported credits;

b) interest arising in Finland shall be taxable only in Romania if the interest is paid to:

(i) the State of Romania;

(ii) an administrative-territorial unit;

(iii) the National Bank of Romania;

(iv) the Export Import Bank of Romania (EXIMBANK OF ROMANIA);

(v) any resident of Romania in respect of a government supported loan or credit the terms and conditions of which are determined according to internationally accepted guidelines for officially supported credits;

(vi) any institution, the capital of which is wholly owned by the Government of Romania or an administrative-territorial unit thereof as may be agreed from time to time between the competent authorities of the Contracting States;

c) interest arising

(i) in a Contracting State on a loan guaranteed by any of the bodies mentioned or referred to in sub-paragraph a) or sub-paragraph b) and paid to a resident of the other Contracting State shall be taxable only in that other State;

(ii) interest arising in Romania on a loan guaranteed by the Finnish Guarantee Board and paid to a resident of Finland shall be taxable only in Finland.

4. 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. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. 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 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.

7. 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 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 beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed:

- a) 2.5 per cent of the gross amount of the royalties, in the case of payments received for the use of, or the right to use, computer software, or industrial, commercial or scientific equipment;
- b) 5 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 computer software, cinematograph films, and films or tapes for television or radio broadcasting, transmission to the public by satellite, cable, optic fibre or similar technology, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment (except containers referred to in paragraph 2 of Article 8), or for information concerning industrial, commercial or scientific experience. The term "royalties" also includes gains from the alienation of any such right or property to the extent that such gains are contingent on the productivity, use or disposition thereof.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this 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 in a company of whose assets more than one-half consists of immovable property situated in the other Contracting State may be taxed in that other State.
3. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.
4. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.
5. Gains derived by an enterprise of a Contracting State from the alienation of containers (including trailers, barges and related equipment for the transport of containers) used for the transport of goods or merchandise shall be taxable only in that State, except where such containers are used for the transport of goods or merchandise solely between places within the other Contracting State.
6. 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.

### **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, or he is present in the other Contracting State for a period or periods exceeding in the aggregate 183 days within any twelve-month period commencing or ending in the calendar year concerned. If:
  - a) he has such a fixed base, the income may be taxed in that other State but only so much of it as is attributable to that fixed base;
  - b) he is so present, the income may be taxed in that other State but only so much of it as is derived from his activities performed in that other State during such period or periods.
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 in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State, may be taxed in that State.

### **Article 16 Directors' Fees**

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

### **Article 17 Artistes and 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.
3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a Contracting State by an entertainer or a sportsman if the visit to that State is wholly or mainly supported by public funds of the other Contracting State or a local authority or an administrative-territorial unit thereof. In such case, the income shall be taxable in accordance with the provisions of Article 7, Article 14 or Article 15, as the case may be.

#### **Article 18 Pensions, Annuities and Similar Payments**

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration in consideration of past employment, or any annuity, paid to a resident of a Contracting State 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 periodic or lump-sum compensation, awarded under the social security legislation of a Contracting State or under any public scheme organised by a Contracting State for social welfare purposes, or any annuity arising in that State, shall be taxable only in that State.
3. The term "annuity" as used in this Article means a stated sum payable periodically to an individual at stated times during his 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 statutory body, a local authority or an administrative-territorial unit thereof, to an individual in respect of services rendered to that State or body or authority or unit 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 statutory body, a local authority or an administrative-territorial unit thereof, to an individual in respect of services rendered to that State or body or authority or unit shall be taxable only in that State.
  - b) However, 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, 17 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 statutory body, a local authority or an administrative-territorial unit thereof.

#### **Article 20 Students and Trainees**

1. 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. The benefit provided under this paragraph shall extend only for a period of time not exceeding seven consecutive years.
2. A student at a university or other institution for higher education in a Contracting State, or an apprentice or 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 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.

### **Article 22 Elimination of Double Taxation**

1. Subject to the provisions of Finnish law regarding the elimination of international double taxation (which shall not affect the general principle hereof), double taxation shall be eliminated in Finland as follows:

- a) Where a resident of Finland derives income which, in accordance with the provisions of this Agreement, may be taxed in Romania, Finland shall, subject to the provisions of sub-paragraph b), allow as a deduction from the Finnish tax of that person, an amount equal to the Romanian tax paid under Romanian law and in accordance with the Agreement, as computed by reference to the same income by reference to which the Finnish tax is computed.
- b) Dividends paid by a company being a resident of Romania 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.
- c) Notwithstanding any other provision of this Agreement, an individual who is a resident of Romania 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 Romanian 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.

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

Where a resident of Romania derives income which in accordance with the provisions of the Agreement may be taxed in Finland, Romania shall allow as a deduction from the tax on the income of that resident, an amount equal to the tax on income paid in Finland. Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Finland.

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

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

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

#### **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 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. Any agreement reached 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, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

#### **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, especially in order to prevent fraud or evasion in respect of such taxes. 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. This Agreement shall enter into force thirty days after the date of the later of notes to be exchanged between the Governments of the Contracting States confirming that the domestic legal requirements for the entry into force of the Agreement have been complied with. The provisions of the Agreement shall have effect in both Contracting States:

a) 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;

b) 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.

2. The Convention between the Republic of Finland and the Socialist Republic of Romania 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 18 August 1977, (hereinafter referred to as "the 1977 Convention"), shall cease to have effect with respect to taxes to which this Agreement applies in accordance with the provisions of paragraph 1.

### **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 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 in both Contracting States:

a) 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;

b) 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 duplicate at Helsinki this 27th day of October 1998, in the Finnish, Romanian and English languages, all three texts being equally authentic. In case of divergence of interpretation the English text shall prevail.

**FOR THE GOVERNMENT OF THE REPUBLIC OF FINLAND:**

**FOR THE GOVERNMENT OF ROMANIA:**