

No. 20773

**FRANCE
and
HUNGARY**

**Convention for the avoidance of double taxation with
respect to taxes on income and on capital (with
protocol). Signed at Paris on 28 April 1980**

Authentic texts: French and Hungarian.

Registered by France on 25 February 1982.

**FRANCE
et
HONGRIE**

**Convention tendant à éviter les doubles impositions en
matière d'impôts sur le revenu et sur la fortune (avec
protocole). Signée à Paris le 28 avril 1980**

Textes authentiques : français et hongrois.

Enregistrée par la France le 25 février 1982.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE HUNGARIAN PEOPLE'S REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Government of the French Republic and the Government of the Hungarian People's Republic,

Desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income and on capital and to promote and strengthen economic relations between the two countries on the basis of the principles of the Final Act of the Conference on Security and Cooperation in Europe,²

Have agreed as follows:

Article 1. PERSONAL SCOPE

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

Article 2. TAXES COVERED

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

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

3. The existing taxes to which the Convention applies are:

a) In the case of the Hungarian People's Republic:

- (i) The income tax (*a jövedelemadók*);
- (ii) The profits tax (*a nyereségadók*);
- (iii) The special enterprise tax (*a vállalati különadó*);
- (iv) The tax on built property (*a házáadó*);
- (v) The tax on built property value (*a házértékadó*);
- (vi) The tax on unbuilt property (*a telekadó*);
- (vii) The communal development contribution (*a községfejlesztési hozzájárulás*);

¹ Came into force on 1 December 1981, i.e., the first day of the third month following the month in which took place the exchange of notes (effected on 7 October 1980 and 27 September 1981) confirming the completion of the required constitutional procedures, in accordance with article 30 (1).

² *International Legal Materials*, vol. 14, 1975, p. 1292.

- (viii) The tax on dividends and payments of commercial company gains (*a kereskedelmi társaságok osztalék és nyereség kifizetései utáni illeték*)
(Hereinafter referred to as "Hungarian tax");

b) In the case of the French Republic:

- (i) The income tax;

- (ii) The company tax;

including any withholding tax and any prepayment with respect to the aforesaid taxes

(Hereinafter referred to as "French tax").

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

Article 3. GENERAL DEFINITIONS

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

a) The terms "a State" and "the other State" mean, as the case may be, the French Republic or the Hungarian People's Republic;

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

c) The term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

d) The terms "enterprise of the State" and "enterprise of the other State" mean respectively an enterprise carried on by a resident of a State and an enterprise carried on by a resident of the other State;

e) The term "international traffic" means any transport by a ship, aircraft or road vehicle operated by an enterprise which has its place of effective management in a State, except when a ship, aircraft or road vehicle is operated solely between places situated in the other State;

f) The term "national" means:

- (i) Any individual who possesses the nationality of a State;

- (ii) Any body corporate, company and association constituted in conformity with the legislation in force in a State;

g) The term "competent authority" means:

- (i) In the case of the Hungarian People's Republic, the Minister of Finance or his authorized representative;

- (ii) In the case of the French Republic, the Minister of the Budget or his authorized representative.

2. As regards the application of the Convention by a 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 Convention applies.

Article 4. RESIDENT

1. For the purposes of this Convention, the term "resident of a State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. However, this term shall not include persons who are subjected to tax in that State only in respect of income from sources situated in that State or in respect of capital situated in that State.

2. Where, by reason of the provisions of paragraph 1, an individual is resident of both States, 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 in which he has the centre of his vital interests;

b) If the State in which he has the centre of his 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 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 States, it shall be deemed to be a resident of the State in which its place of effective management is situated.

Article 5. PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

a) A place of management,

b) A branch,

c) An office,

d) A factory,

e) A workshop and

f) A mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A construction or assembly site shall not constitute a permanent establishment unless its period of operation exceeds eighteen months.

4. Notwithstanding the preceding provisions of this article, a "permanent establishment" shall not be deemed to exist if:

a) Use is made of facilities for the sole purposes of storage, display or delivery of goods belonging to the enterprise;

- b) Goods belonging to the enterprise are maintained for the sole purposes of storage, display or delivery;
- c) Goods belonging to the enterprise are maintained for the sole purposes of processing by another enterprise;
- d) Assembly operations are carried out by the enterprise of one State with respect to merchandise or goods belonging to it and coming from that State;
- e) A fixed place of business is used for the sole purposes of purchasing goods or collecting information for the enterprise;
- f) A fixed place of business is used for the sole purposes of exercising, for the enterprise, any other activities of a preparatory or auxiliary character;
- g) A fixed place of business is used for the sole purposes of the cumulative exercise of the activities mentioned in subparagraphs a) to f), provided that the general activity of the fixed base of business resulting from this accumulation maintains 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 in a State authority which he habitually exercises there enabling him to conclude contracts on behalf of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State for all the activities which that person exercises for the enterprise, unless the activities of that 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 this paragraph.

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

7. The fact that a company which is a resident of a State controls or is controlled by a company which is a resident of the other 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. IMMOVABLE PROPERTY

1. Income derived by a resident of a State from immovable property (including income from agriculture or forestry) situated in the other State, may be taxed in that other State.

2. The term “immovable property” shall have the meaning which it has under the law of the State in which the property in question is situated. The term 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; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall also 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 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 State shall be taxable only in that State, unless the enterprise carries on business in the other 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 State carries on business in the other State through a permanent establishment situated therein, there shall, in each 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 the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purpose of the business 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 profit shall be attributed to a permanent establishment merely because it has purchased goods 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 Convention, the provisions of those articles shall not be affected by the provisions of this article.

Article 8. INTERNATIONAL TRANSPORT

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

2. Profits from the operation of boats engaged in inland waterways transport shall be taxable only in the State in which the place of effective management of the enterprise is situated.

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

4. 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 ENTERPRISE

Where:

- a) An enterprise of a State participates directly or indirectly in the management, control or capital of an enterprise of the other State, or
- b) The same persons participate directly or indirectly in the management, control or capital of an enterprise of the other 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 the enterprise, 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 State to a resident of the other State may be taxed in that other State.

2. However, such dividends may also be taxed in the 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:

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

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this article means income from shares, *jouissance* shares or *jouissance* rights, mining shares, founders' 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.

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

5. A resident of the Hungarian People's Republic who receives dividends paid by a company which is a resident of the French Republic may obtain the reimbursement of the prepayment relating to these dividends paid, should such be the case, by that company. This reimbursement may be taxed in the French Republic in conformity with the provisions of paragraph 2. The gross amount of

the reimbursed prepayment shall be considered as a dividend for the purpose of the general application of the provisions of this Convention.

6. Where a company which is a resident of a State derives profits or income from the other State, that other State may not impose any tax on the dividends paid by the company, except in so far as such dividends are paid to a resident of that other State or in so far 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.

7. Notwithstanding the provisions of paragraph 6, where a company which is a resident of a State carries on business in the other State through a permanent establishment situated therein, the profits of this permanent establishment may, after having borne the company tax, be subjected, in conformity with the legislation of that other State, to a tax the amount of which may not exceed 5 per cent.

Article 11. INTEREST

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

2. 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 bonds or debentures.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a State, carries on business in the other 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 it. In that case, the provisions of article 7 or article 14, as the case may be, shall apply.

4. Where, by reason of a special relationship between the payer and the 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 payment shall remain taxable according to the laws of each State, due regard being had to the other provisions of the Convention.

Article 12. ROYALTIES

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

2. 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 cinematographic films and works

recorded for radio or television broadcasting, any patent, trade mark design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a State, carries on business in the other 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 of article 14, as the case may be, shall apply.

4. 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 a 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 State, due regard being had to the other provisions of this Convention.

Article 13. CAPITAL GAINS

1. Gains derived by a resident of a State from the alienation of immovable property referred to in article 6 and situated in the other State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of business property of a permanent establishment which an enterprise of a State has in the other State, or of movable property pertaining to a fixed base available to a resident of a State in the other 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, aircraft or road vehicles operated in international traffic or movable property pertaining to the operation of such ships, aircraft or road vehicles, shall be taxable only in the State in which the place of effective management of the enterprise is situated.

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

Article 14. INDEPENDENT PERSONAL SERVICES

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

2. The term "professional services" includes especially independent scientific, literary, 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, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a State in respect of paid employment shall be taxable only in that State, unless the employment is exercised in the other 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 State in respect of paid employment exercised in the other State shall be taxable only in the first-mentioned State if

- a) The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal 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 paid employment exercised aboard a ship, aircraft or road vehicle operated in international traffic, or aboard a ship engaged in inland waterways transport, may be taxed in the State in which the place of effective management of the enterprise is situated.

Article 16. DIRECTORS' FEES

Directors' fees and other similar payments derived by the resident of a State in his capacity as a member of the Board of Directors of a company which is a resident of the other State may be taxed in that other State.

Article 17. ENTERTAINERS AND ATHLETES

1. Notwithstanding the provisions of articles 14 and 15, income derived by a resident of a State from his personal activities exercised in the other State as an entertainer, such as a theatre, motion picture, radio or television artiste, or musician, or as an athlete, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of article 7, 14 and 15, be taxed in the State in which the activities of the entertainer or athlete are exercised, if that entertainer or athlete participates directly or indirectly in the profits of that person.

3. Notwithstanding the provisions of paragraph 1, the remuneration or profits and the salaries, wages and other similar income which an entertainer or athlete, who is a resident of a State, derives from his personal activities exercised in the other State, and in that capacity, are taxable only in the first-mentioned State when those activities in the other State are financed in a large proportion

by the public funds of the first-mentioned State, of one of its local authorities or of one of its bodies corporate in public law.

4. Notwithstanding the provisions of paragraph 2, when the income from the activities which an entertainer or an athlete exercises personally and in that capacity in a State is attributed not to the entertainer or athlete himself but to another person, that income is taxable, notwithstanding the provisions of articles 7, 14 and 15, only in the other State:

- a) When that other person is financed in a large proportion by the public funds of that other State, of one of its local authorities or of one of its bodies corporate in public law, or when that other person is a non-profit-making organization of that other State, or
- b) When those activities are exercised within the framework of a Convention or a cultural agreement concluded between the two States.

Article 18. PENSIONS

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

2. Notwithstanding the provisions of paragraph 1, pensions and other sums paid in pursuance of the social security legislation of a State are taxable only in that State.

Article 19. GOVERNMENT SERVICE

1. Remuneration other than a pension, paid by a State or one of its local authorities or by one of its bodies corporate in public law to an individual in respect of services rendered to that State or to that local authority, or to that body corporate in public law, shall be taxable only in that State.

2. Pensions paid by a State or one of its local authorities, or by one of its bodies corporate in public law, either directly or by prepayment out of funds they have constituted, to an individual, in respect of services rendered to that State or that authority, or to that body corporate in public law, shall be taxable only in that State.

3. The provisions of articles 15, 16 and 18 shall apply to remuneration and pensions paid in respect of services rendered in connection with a business carried on by a State or one of its local authorities, or by one of its bodies corporate in public law.

Article 20. STUDENTS

1. Payments which a student or business apprentice who is or was immediately before visiting a State a resident of the other 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 are not taxable in that State, provided that such payments arise from sources situated outside that State.

2. Notwithstanding the provisions of articles 14 and 15, the payments which a student who is or was immediately before visiting a State a resident of the other State and who is present in the first-mentioned State for the sole purpose of pursuing in that State his education or training receives in respect of services

rendered in the first-mentioned State are not taxable in the first-mentioned State, provided that those services are related to his education or training and provided that the remuneration of those services is necessary to supplement the resources he has for his maintenance.

Article 21. TEACHERS AND RESEARCHERS

1. The remuneration which a teacher or a researcher who is or was immediately before visiting a State a resident of the other State and who is present in the first-mentioned State for the sole purpose of teaching or conducting research in that State receives in respect of those activities is not taxable in that State for a period not exceeding two years.

2. The provisions of paragraph 1 shall not apply to remuneration received in respect of research work undertaken not in the public interest but mainly for the purpose of achieving a particular advantage benefiting one or more specific persons.

Article 22. OTHER INCOME

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

2. The provisions of paragraph 1 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 State, carries on business in the other 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 23. CAPITAL

1. Capital represented by immovable property referred to in article 6 owned by a resident of a State and situated in the other State is taxable 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 State has in the other State or by movable property pertaining to a fixed base available to a resident of a State in the other State for the purpose of performing independent personal services, may be taxed in that other State.

3. Capital represented by ships, aircraft and road vehicles operated in international traffic, by boats engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft and road vehicles shall be taxable only in the State in which the place of effective management of the enterprise is situated.

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

Article 24. METHODS FOR THE ELIMINATION OF DOUBLE TAXATION

Double taxation shall be avoided in the following manner:

1. In the case of the Hungarian People's Republic:

a) Where a resident of the Hungarian People's Republic derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the French Republic, the Hungarian People's Republic shall exempt this income or capital from tax, subject to the provisions of subparagraphs *b)* and *c)* below.

b) Where a resident of the Hungarian People's Republic derives items of income which, in accordance with the provisions of article 10, may be taxed in the French Republic, the Hungarian People's Republic shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in the French Republic. Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the items of income received from the French Republic.

c) Where, in accordance with any provision of the Convention, the income which a resident of the Hungarian People's Republic receives or the capital he owns is exempt from tax in the Hungarian People's Republic, the Hungarian People's Republic may, nevertheless, in calculating the amount of tax on the remaining income or capital of that resident, take into account the exempted income or capital.

2. In the case of the French Republic:

a) The income other than that referred to in subparagraph *b)* below shall be exempt from the French taxes mentioned in subparagraph *a)* of paragraph 3 of article 2 when that income is taxable in the Hungarian People's Republic under this Convention.

b) The income referred to in articles 10, 14, 16 and 17 derived from the Hungarian People's Republic is taxable in the French Republic in accordance with the provisions of these articles, in respect of their gross amount. The Hungarian tax levied on this income entitles residents of the French Republic to a tax credit corresponding to the amount of the Hungarian tax levied but which may not exceed the amount of the French tax relating to this income. This credit is attributable to the income referred to in subparagraph *a)* of paragraph 3 of article 2, within the tax bases in which the income in question is included.

c) Notwithstanding the provisions of subparagraphs *a)* and *b)*, French tax may be computed on income chargeable in the French Republic by virtue of this Convention at the rate appropriate to the total of the income chargeable in accordance with French laws.

Article 25. NON-DISCRIMINATION

1. Nationals of a State shall not be subjected in the other 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. This provision shall, notwithstanding the provisions of article 1, also apply to persons who are not residents of one or both States.

2. The taxation on a permanent establishment which an enterprise of a State has in the other 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 State to grant the residents of the other State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of article 9, of paragraph 4 of article 11, or of paragraph 4 of article 12 apply, interest, royalties and other disbursements paid by an enterprise of a State to a resident of the other 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 State to a resident of the other 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 State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other 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 26. MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the State of which he is a resident or, if his case comes under paragraph 1 of article 25, to that of the 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 Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other State, with a view to the avoidance of taxation which is not in accordance with this Convention. Any agreement reached shall be implemented notwithstanding any time-limits in the domestic law of the States.

3. The competent authorities of the States shall endeavour to resolve by mutual agreement any difficulties as to the application of the Convention.

The competent authorities of the States may in particular consult together in order to strive to reach an agreement:

a) To ensure that the profits attributable to a permanent establishment situated in a State of an enterprise of the other State are attributed in an identical manner in the two States;

- b) To ensure that income due to a resident of a State and to an associated person referred to in article 9, who is a resident of the other State, are attributed in an identical manner.

They may also consult together with a view to eliminating double taxation in cases not covered by the Convention.

4. The competent authorities of the States may communicate directly with each other with a view to reaching an agreement as indicated in the previous paragraphs. If exchanges of oral views seem likely to facilitate this agreement, such exchanges of views may take place within a commission composed of representatives of the competent authorities of the States.

5. The competent authorities of the States shall regulate by common agreement the modalities of application of the Convention and in particular the formalities to be accomplished by residents of a State to obtain in the other State the reductions or exemptions from tax covered by the Convention.

Article 27. EXCHANGE OF INFORMATION

1. The competent authorities of the States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the States concerning taxes covered by the Convention, in so far as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by article 1. Any information received by a State shall be treated as secret in the same manner as information obtained under the domestic laws of that State, and shall be communicated 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 which are the subject of the Convention. 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. The information received shall be kept secret at the request of the State transmitting it.

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

- a) To carry out administrative measures at variance with the laws and administrative practice of that or 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 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 28. DIPLOMATIC AGENTS AND CONSULAR OFFICERS

1. Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions and their private domestic staff, members of consular posts, and members of permanent delegations to international organizations either under the general rules of international law or under the provisions of special agreements.

2. Notwithstanding the provisions of article 4, any individual who is a member of a diplomatic mission, a consular post or a permanent delegation of

one State which is situated in the other State or in a third State shall be considered, for the purposes of this Convention, as a resident of the accrediting State provided:

- a) That, in conformity with international law, that individual is not subject to tax in the receiving State in respect of income from sources external to that State or of capital situated outside that State and
- b) That such an individual is subject in the accrediting State to the same obligations in the matter of taxes on his income or capital throughout the world as the residents of that State.

3. The Convention shall not apply to international organizations, to organs or officials thereof and to persons who are members of a diplomatic mission, consular post, or permanent mission of a third State, being present in the territory of one State and who are not liable to the same obligations in relation to tax on income or capital as the residents thereof.

Article 29. TERRITORIAL SCOPE

This Convention shall apply

- a) In the case of the Hungarian People's Republic, to the territory of the Hungarian People's Republic,
- b) In the case of the French Republic, to the European and overseas departments of the French Republic, including the zones situated outside the territorial waters of those departments, over which, in conformity with international law, the French Republic may exercise rights concerning the seabed, the marine subsoil and their natural resources.

Article 30. ENTRY INTO FORCE

1. This Convention shall be approved in accordance with the procedures required by the laws of each of the two States. It shall enter into force on the first day of the third month following the month in which the exchange of notes indicating that the necessary formalities have been completed in the two States has taken place.

2. Its provisions shall apply for the first time:

- a) In respect of tax withheld at source, to sums payable from the date of the entry into force of the Convention;
- b) In respect of other taxes on income, to the income obtained during the year of taxation following the calendar year during which the exchange of notes referred to in paragraph 1 above took place or to the income relating to the financial exercise closed during the course of that same taxation year;
- c) In respect of taxes on capital, to the elements of capital taxable in respect of the taxation year following the calendar year during which the exchange of notes referred to in paragraph 1 above took place.

Article 31. TERMINATION

1. This Convention shall remain in force indefinitely. However, after a period of five years from the date of entry into force of the Convention, it may, after a minimum notice of six months through the diplomatic channel, be denounced for the end of a calendar year.

2. In this case, its provisions shall apply for the last time:

- a) In respect of taxes withheld at source, to sums payable at the latest on 31 December of the calendar year for the end of which the denunciation has been notified;
- b) In respect of other taxes on income and capital, to elements of income and capital taxable in respect of the calendar year for the end of which the denunciation has been notified or relating to the financial exercise closed during that year.

IN WITNESS WHEREOF, the undersigned, duly authorized for this purpose, have signed this Convention.

DONE at Paris on 28 April 1980 in two copies, in the French and Hungarian languages, the two texts being equally authentic.

For the Government
of the French Republic

[Signed]

MAURICE PAPON
Minister of the Budget

For the Government
of the Hungarian Republic

[Signed]

FALUVEGI LAJOS
Minister of Finance

PROTOCOL

At the time of signing the Convention between the Government of the French Republic and the Government of the Hungarian People's Republic for the avoidance of double taxation in respect of taxes on income and capital, the undersigned have agreed on the following provisions:

1. In respect of paragraph 1, *e*) of article 3, the term "international traffic" means also any transport effected by container when that transport is merely the extension of a transport operation effected in international traffic.

2. In respect of article 6, income from shares or debentures in a company or body corporate possessing immovable property situated in a State which, under the legislation of that State, is subject to the same fiscal treatment as the income from immovable property shall be taxable in that State.

3. *a*) In respect of paragraphs 1 and 2 of article 7, when an enterprise of one State sells goods or carries on business in the other State through a permanent establishment situated therein, the profits of this permanent establishment shall not be calculated on the basis of the total amount received by the enterprise but shall be calculated solely on the basis of the remuneration attributable to the real business of the permanent establishment for these sales or for this business.

In the case of contracts for study, supply, installation or construction of industrial, commercial or scientific equipment or establishments, or public works, when the enterprise has a permanent establishment, the profits of this permanent establishment shall not be determined on the basis of the total amount of the contract but shall be determined solely on the basis of that part of the contract which is effectively executed by this permanent establishment in the State where this permanent establishment is situated. The profits relating to the part of the contract which is executed by the headquarters of the enterprise shall be taxable only in the State of which that enterprise is a resident.

b) In respect of paragraph 1 of article 7, remunerations of any kind paid for the use of, or the right to use, industrial, commercial or scientific equipment shall be considered as profits of an enterprise to which the provisions of article 7 apply.

4. In respect of article 8, the provisions of paragraphs 1, 2 and 3 shall also apply to the activities of agencies and other supplementary activities closely linked to the direct operation in international traffic of ships, aircraft and road vehicles, in which shipping, air transport and road transport enterprises are engaged.

5. In respect of article 10, the provisions of paragraph 2, a) shall apply to Hungarian economic associations with foreign participation created in the form of collective companies.

6. a) In respect of article 13, gains derived from the alienation of shares or debentures in a company or a body corporate possessing immovable property situated in a State which, in accordance with the laws of that State, are subjected to the same fiscal treatment as gains derived from the alienation of immovable property, shall be taxable in that State.

b) Notwithstanding the provisions of paragraph 4 of article 13, gains derived from the alienation of shares or debentures constituting a substantial participation in a company which is a resident of a State shall be taxable in that State, in accordance with its domestic legislation. A substantial participation shall be considered to exist when the alienator, alone or with persons in association or partnership, directly or indirectly owns shares or debentures the total of which entitles him to 25 per cent or more of the profits of the company.

7. In respect of article 23, the elements of capital constituted by shares or debentures in a company or a body corporate possessing immovable property situated in a State, which, in accordance with the laws of that State, are subject to the same fiscal treatment as immovable property, are taxable in that State.

8. In respect of article 25:

a) Nothing in paragraph 1 may be interpreted as preventing the French Republic from granting only to persons of French nationality the benefit of exemption of the gains derived from the alienation of immovable property or parts of immovable property constituting the residence in the French Republic of French citizens who are not domiciled in the French Republic, such as is provided for in article 150 C of the General Tax Code; and

b) Nothing in paragraph 3 may be interpreted as preventing the French Republic from applying the provisions of article 212 of the General Tax Code with regard to interest paid by a French company to a foreign parent company.

IN WITNESS WHEREOF, the undersigned have signed this Protocol which shall enter into force on the same date as the Convention and shall terminate at the same time as the Convention.

DONE in Paris, on 28 April 1980, in two copies, in the French and Hungarian languages, the two texts being equally authentic.

For the Government
of the French Republic:

[MAURICE PAPON]

For the Government
of the Hungarian People's Republic:

[FALUVEGI LAJOS]