

**No. 22387**

---

**HUNGARY  
and  
ITALY**

**Convention for the avoidance of double taxation with respect to taxes on income and capital and for the prevention of tax evasion (with protocol). Signed at Budapest on 16 May 1977**

*Authentic texts: Hungarian, Italian and French.  
Registered by Hungary on 13 October 1983.*

---

**HONGRIE  
et  
ITALIE**

**Convention tendant à éviter les doubles impositions en matière d'impôts sur le revenu et sur la fortune et à prévenir les évasions fiscales (avec protocole). Signée à Budapest le 16 mai 1977**

*Textes authentiques : hongrois, italien et français.  
Enregistrée par la Hongrie le 13 octobre 1983.*

## [TRANSLATION — TRADUCTION]

CONVENTION<sup>1</sup> BETWEEN THE GOVERNMENT OF THE HUNGARIAN PEOPLE'S REPUBLIC AND THE GOVERNMENT OF THE ITALIAN REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND CAPITAL AND FOR THE PREVENTION OF TAX EVASION

The Government of the Hungarian People's Republic and the Government of the Italian Republic, desiring to develop and facilitate the economic ties between them, have decided to conclude a Convention for the avoidance of double taxation with respect to taxes on income and capital and for the prevention of tax evasion, the provisions of which are the following:

*Article 1. PERSONAL SCOPE*

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

*Article 2. TAXES COVERED*

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

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

3. The existing taxes to which the Convention shall apply are, in particular:

(a) In the case of the Italian Republic:

- (1) The tax on the income of individuals (*imposta sul reddito delle persone fisiche*);
- (2) The tax on the income of bodies corporate (*imposta sul reddito delle persone giuridiche*);
- (3) The local tax on income (*imposta locale sui redditi*), even if they are collected by withholding at the source (hereinafter called "Italian taxes");

(b) In the case of the Hungarian People's Republic:

- (1) Taxes on income (*jövedelemadók*);
- (2) Taxes on profits (*nyereségadók*);
- (3) The special tax on enterprises (*vállalati különadó*);
- (4) The tax on structures (*házadó*);
- (5) The tax on the value of structures (*házértékadó*);
- (6) The tax on immovable property on which there are no structures (*teleadó*);

<sup>1</sup> Came into force on 1 January 1981, i.e., the sixtieth day following the exchange of notes (effected on 2 October 1980) by which the Parties informed each other of its approval, in accordance with article 30.

- (7) The contribution to community development (*községfejlesztési hozzájárulás*);
- (8) The tax due on dividends and on the profits of commercial companies, (hereinafter called “Hungarian taxes”).

4. The Convention shall apply also to any identical or substantially similar future taxes which enter into force after the date of signature of the Convention in addition to, or in place of, the existing taxes.

#### Article 3. GENERAL DEFINITIONS

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

(a) The terms “a Contracting State” and “the other Contracting State” mean the Hungarian People’s Republic or the Italian Republic, depending on the context;

(b) The term “person” includes individuals, companies 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 purposes of taxation;

(d) 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;

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

(f) The term “nationals” means:

(1) All individuals who possess the nationality of a Contracting State;

(2) All bodies corporate, private companies and associations constituted in accordance with the law in force in a Contracting State;

(g) The term “competent authority” means:

In the Hungarian People’s Republic, the Minister of Finance;

In the Italian Republic, the Ministry of Finance.

2. As regards the application of the Convention by a Contracting State, any term not otherwise defined 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. FISCAL DOMICILE

1. For the purposes of this Convention, the term “resident of a Contracting State” means a 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, that expression shall not include persons who are taxable in that State only in respect of the income which they derive from sources situated in that State or in respect of the capital which they possess in that State.

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

(a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting

State in which his centre of vital interests, including economic interests, is situated;

- (b) If the Contracting 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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) If he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- (d) If he is a national of both Contracting 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, it shall be deemed to be a resident of the Contracting 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 at which the business of the 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;
- (f) A mine, a quarry or any other place of extraction of natural resources;
- (g) A building site or a construction, assembly or installation project which exists for more than 24 months.

3. The term “permanent establishment” shall not be deemed to include:

- (a) The use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
- (e) The maintenance of a fixed place of business, for the enterprise, solely for the purpose of advertising, the supply of information, scientific research or similar activities which have a preparatory or auxiliary character.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State — other than an agent of independent status to whom paragraph 5 applies — shall be deemed to be a permanent establishment in the first-mentioned State if he has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

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

6. 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 from immovable property, including income from agriculture or forestry, shall be taxed only in the Contracting State in which such property is situated.

2. The term “immovable property” shall be defined in accordance with the law of the Contracting 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 and rights to which the provisions of general law respecting landed property apply. The term “immovable property” shall also include 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 deemed to be 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 the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

#### *Article 7. PROFITS OF ENTERPRISES*

1. The profits of an enterprise of a Contracting State shall be taxable only in that Contracting State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated there. If the enterprise carries on business as aforesaid, the profits of the enterprise shall be taxable in the said 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 the calculation of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. No profit shall be attributed to a permanent establishment by reason of the fact that:

- (a) The permanent establishment has merely purchased goods or merchandise for the enterprise, or
- (b) The delivery of goods or merchandise is carried on for the permanent establishment's own use.

5. 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. SHIPS AND AIRCRAFT

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

2. If the place of effective management of a shipping enterprise is on board a ship, it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

3. Paragraphs 1 and 2 shall be valid even if the enterprise has an agency for the carriage of persons or of merchandise in the territory of the other State.

4. The provisions of paragraph 1 shall also apply to profits from participation in a pool, a joint business or an international operating agency.

#### Article 9. ASSOCIATED ENTERPRISES

Where

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

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, any profits which would, but for the conditions, have accrued to one of the enterprises but, by reason of those conditions, have not so accrued may be included in the profits of that enterprise and taxed accordingly.

#### Article 10. DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State, but the tax so established may not exceed 10 per cent of the gross amount of the dividends.

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 assimilated to income from shares by the taxation law 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 recipient 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 professional services in that other State therein, and the holding by virtue of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the dividends shall be taxable in the said other Contracting State in accordance with its own domestic law.

5. 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 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 undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

#### *Article 11. INTEREST*

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

2. The term "interest" as used in this article means income from government securities, bonds or debentures, whether or not guaranteed by a mortgage on real property, with or without the right to share in benefits, and from credits of any kind, as well as any other income assimilated to income derived from loans by the taxation law of the State in which it arises.

3. The provisions of paragraph 1 shall not apply if the recipient 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 professional services in that other State 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 interest shall be taxable in the said other Contracting State in accordance with its own domestic law.

4. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, 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 recipient 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 be taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

#### *Article 12. ROYALTIES*

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

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 cinematograph films and tape recordings for television or radio 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 recipient 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 professional services in that other State 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 royalties shall be taxable in the said other Contracting State in accordance with its own domestic law.

4. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount that would have been agreed upon by the payer and the recipient 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 be taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

#### *Article 13. GAINS FROM THE ALIENATION OF CAPITAL*

1. Gains from the alienation of immovable property, as defined in article 6, paragraph 2, shall be taxable in the Contracting State in which the said property is situated.

2. Gains from the alienation of immovable 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 professional services, including such gains from the total alienation of such permanent establishment (alone or together with the whole enterprise) or of such fixed base, shall be taxable in the other State. However, gains from the alienation of movable property of the kind referred to in article 23, paragraph 3, shall be taxable only in the Contracting State in which such movable property is itself taxable according to the said article.

3. Gains from the alienation of any property other than that referred to paragraphs 1 and 2 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 independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base available to him, the income shall be taxable in the other State but only so much of it as is attributable to that fixed base.



2. The term “professional services” includes especially independent scientific, literary, artistic, educational or teaching activities, as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

*Article 15. EMPLOYMENT*

1. Subject to the provisions of articles 16, 18, 19, 20 and 21, wages, salaries and 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 shall be taxable 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 in the fiscal year concerned;
- (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 in respect of an employment exercised on board a ship or aircraft operated in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

*Article 16. DIRECTORS' FEES*

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

*Article 17. ENTERTAINERS AND ATHLETES*

1. Notwithstanding the provisions of articles 14 and 15, income derived by entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such shall be taxable in the Contracting State in which such activities are exercised.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such is attributed to a person other than the entertainer or athlete himself, it may, notwithstanding the provisions of articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised if the said entertainer or athlete participates directly or indirectly in that person's profits.

3. Notwithstanding the provisions of the foregoing paragraphs 1 and 2 of this article, income derived from the activities referred to in paragraph 1 shall, if the said activities are exercised under a convention or cultural agreement concluded between the Contracting States, be exempted from taxation in the State in which the said activities are exercised.

*Article 18. PENSIONS*

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

*Article 19. GOVERNMENT SERVICE*

1. (a) Remuneration, other than a pension paid by a Contracting State or a political or administrative subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the individual is a resident of that State who:

- (i) Is a national of that State; or
- (ii) Did not become a resident of that State solely for the purpose of rendering the services.

2. (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

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

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

*Article 20. TEACHERS*

Remuneration derived by professors and other teachers who are residents of a Contracting State and who visit the other Contracting State for a period not exceeding two years for the purpose of teaching or engaging in scientific research activity at a university or other non-profit teaching or scientific research institution shall be taxable only in the first-mentioned State.

*Article 21. STUDENTS*

Payments which a student or business apprentice who is or has previously been a resident of a Contracting State and who is visiting the other Contracting 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 other State, provided that such payments arise from sources outside that other State.

*Article 22. OTHER INCOME*

1. Items of income of a resident of a Contracting 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 if the recipient of the income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated there or performs professional services in that other State through a fixed base situated there, and the right or prop-

erty in respect of which the income is derived is effectively connected with the said permanent establishment or fixed base. In such case, the items of income shall be taxable in the said other Contracting State in accordance with its own domestic law.

*Article 23. CAPITAL*

1. Capital represented by immovable property as defined in article 6, paragraph 2, may be taxed in the Contracting State in which the said property is situated.

2. Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise, or by movable property pertaining to a fixed base used for the performance of professional services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.

3. Ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

*Article 24. PROVISION FOR THE ELIMINATION OF DOUBLE TAXATION*

1. It is agreed that double taxation shall be eliminated in accordance with the following paragraphs of this article.

2. In the case of the Italian Republic:

Where a resident of the Italian Republic receives elements of income which are taxable in the Hungarian People's Republic, the Italian Republic may, in determining its taxes on income referred to in article 2 of this Convention include those elements of income in the taxable base for the said taxes unless otherwise provided by specific provisions of this Convention.

In such case, the Italian Republic shall deduct from the taxes so determined the tax on income paid in the Hungarian People's Republic, but the amount of the deduction may not exceed such fraction of the Italian tax as is attributable to the said elements of income in the proportion in which they form part of the total income.

However, no deduction shall be granted where the elements of income are subject to taxation in the Italian Republic by withholding of taxes at the source at the request of the recipient of the income in accordance with Italian law.

In the case of the Hungarian People's Republic:

(a) Where a resident of the Hungarian People's Republic receives income which, according to the provisions of this Convention, are taxable in the Italian Republic, the Hungarian People's Republic shall exempt such income from taxation, subject to the provisions of subparagraph (b), but may, in determining the amount of the tax on the remainder of the said resident's income, apply the same rate as if the income in question had not been exempted.

(b) Where a resident of the Hungarian People's Republic receives income which, according to the provisions of article 10, is taxable in the Italian Republic, the Hungarian People's Republic shall grant a deduction from the tax imposed on the said resident's income which is equal to the tax paid in the Italian Republic. The sum so deducted may not, however, exceed the fraction of the tax, calculated before the deduction, which corresponds to the income received from the Italian Republic.

*Article 25. NON-DISCRIMINATION*

1. Nationals of a Contracting State shall not be subjected in the other Contracting State, whether or not they are residents of either 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 Contracting State in the same circumstances are or may be subjected.

2. The taxation of 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 in the cases covered by article 9, article 11, paragraph 4, and article 12, paragraph 4, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall be deductible for the purpose of determining the taxable profits of the enterprise, under the same conditions as if they had been paid to a resident of the first-mentioned State.

Similarly, debts owed by an enterprise of a Contracting State to a resident of the other Contracting State shall be deductible in determining the taxable capital of the enterprise under the same conditions as if they were owed to a resident of the first-mentioned State.

4. Enterprises of a Contracting State whose capital is wholly or partly held or controlled, directly or indirectly, by one or more residents of the other Contracting State shall not be subjected in the first-mentioned Contracting 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. In this article the term "taxation" means taxes of every kind and description.

*Article 26. MUTUAL AGREEMENT PROCEDURE*

1. Where a resident of a Contracting State believes that the action of one or both of the Contracting States results 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 Contracting State of which he is a resident or, if his case comes under article 25, paragraph 1, 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 Convention.

2. The said 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 Convention. 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 Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other direct for the purpose of reaching an agreement in the sense of the preceding paragraphs. If oral exchanges of views seem likely to facilitate such agreement, they may be held in a Commission consisting of representatives of the competent authorities of the Contracting States.

#### *Article 27. 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 Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention, in so far as the taxation thereunder is not contrary to the Convention, and for the prevention of tax evasion. 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 way as information obtained in pursuance of that State's domestic law and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, in proceedings relating to, or in the determination of appeals in relation to, the taxes which are the subject of this Convention. The above-mentioned persons or authorities shall use the information only for such purposes. They may use 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 one of the Contracting States 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 commercial, industrial, or professional secret or trade process, or information whose disclosure would be contrary to public policy (*ordre public*).

#### *Article 28. DIPLOMATIC AGENTS AND CONSULAR OFFICERS*

Nothing in this Convention shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

#### *Article 29. REQUEST FOR REIMBURSEMENT*

1. The taxes collected in a Contracting State by withholding at the source shall be reimbursed at the request of the person concerned or of the State of which he is a resident if the right to collect such taxes is limited by the provisions of this Convention.

2. Requests for reimbursement, to be presented within the time-limits established by the laws of the Contracting State required to make such reimbursement, must be accompanied by an official certificate from the Contracting State of which the taxpayer is a resident, attesting that the conditions required for benefiting from the exemptions or reductions provided for in this Convention have been met.

3. The competent authorities of the Contracting States shall, in conformity with the provisions of article 26, regulate the manner of application of this article.

*Article 30.* ENTRY INTO FORCE

This Convention is subject to ratification or approval in accordance with the law of each Contracting State.

The Convention shall enter into force on the sixtieth day following the date of the exchange of diplomatic notes attesting to its ratification or approval. Its provisions shall apply:

- (a) To taxes withheld at the source on income attributed or paid after 1 January of the year following that of the exchange of the diplomatic notes;
- (b) To other taxes in respect of taxable periods ending after 1 January of the year of the said exchange.

*Article 31.* TERMINATION

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through the diplomatic channel, by giving notice of termination at least six months before the end of any calendar year and after the expiry of a term of five years following the date of its entry into force. In such case, the Convention shall apply for the last time:

- (a) To taxes withheld at the source on income paid not later than 31 December of the year of termination;
- (b) To other taxes in respect of taxable periods ending not later than 31 December of the same year.

IN WITNESS WHEREOF the plenipotentiaries of the two States have signed this Convention and have thereto affixed their seals.

DONE at Budapest on 16 May 1977, in duplicate in the Hungarian, Italian and French languages, the last prevailing in the event of disagreement.

For the Government  
of the Hungarian People's Republic:

[LAJOS FALUVÉGI]

For the Government  
of the Italian Republic:

[FILIPPO M. PANDOLFI]

PROTOCOL OF AGREEMENT TO THE CONVENTION BETWEEN THE GOVERNMENT OF THE HUNGARIAN PEOPLE'S REPUBLIC AND THE GOVERNMENT OF THE ITALIAN REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND CAPITAL AND FOR THE PREVENTION OF TAX EVASION

At the time of signature of the Convention concluded today between the Government of the Hungarian People's Republic and the Government of the Italian Republic for the avoidance of double taxation with respect to taxes on income and capital and for the prevention of tax evasion, the undersigned plenipotentiaries have agreed on the following supplementary provisions, which constitute an integral part of the Convention.

It is agreed that:

- (a) In respect of article 2, if a tax on capital should be introduced in the future, the Convention shall apply to that tax, and double taxation shall be avoided in accordance with the provisions of article 24;

- (b) With reference to article 26, paragraph 1, the expression “irrespective of the remedies provided by the domestic law” means that the initiation of the mutual agreement procedure is not alternative to the domestic litigation procedure to which, in every case, recourse must be had in advance if the conflict relates to an application of the taxes which is not in accordance with the Convention;
- (c) The provision referred to in article 29, paragraph 3, does not exclude the interpretation that the competent authorities of the Contracting States may, by agreement, establish different procedures for the application of the reductions or exemptions from taxes to which entitlement is granted by the Convention.

DONE at Budapest on 16 May 1977, in duplicate in the Hungarian, Italian and French languages, the last prevailing in the event of disagreement.

For the Government  
of the Hungarian People's Republic:

[LAJOS FALUVÉGI]

For the Government  
of the Italian Republic:

[FILIPPO M. PANDOLFI]