

No. 23576

**BELGIUM
and
HUNGARY**

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital (with protocol). Signed at Budapest on 19 July 1982

*Authentic texts: French, Dutch and Hungarian.
Registered by Belgium on 25 September 1985.*

**BELGIQUE
et
HONGRIE**

Convention tendant à éviter les doubles impositions et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur la fortune (avec protocole). Signée à Budapest le 19 juillet 1982

*Textes authentiques : français, néerlandais et hongrois.
Enregistrée par la Belgique le 25 septembre 1985.*

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE KINGDOM OF BELGIUM AND THE GOVERNMENT OF THE HUNGARIAN PEOPLE'S REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Government of the Kingdom of Belgium and the Government of the Hungarian People's Republic,

Desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion 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 provisions of the Final Act of the Conference on Security and Co-operation in Europe,²

Have agreed as follows:

CHAPTER I. SCOPE OF THE CONVENTION

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 subdivisions or local authorities, irrespective of the manner in which they are levied.

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

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

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

- (i) The general income tax (*az általános jövedelemadó*);
- (ii) The tax on the income of persons engaged in intellectual activities (*a szellemi tevékenységet folytatók jövedelemadója*);
- (iii) The tax on the income of enterprises and subsidiaries (*a háztáji és kisegítő gazdaságok jövedelemadója*);
- (iv) The company tax (*a társasági adó*);
- (v) The special company tax (*a társasági különadó*);

¹ Came into force on 25 February 1984, i.e., the thirtieth day following the date on which the Contracting Parties had notified each other (on 17 February 1983 and 26 January 1984) of the completion of the required constitutional procedures, in accordance with article 28.

² *International Legal Materials*, vol. 14 (1975), p. 1292 (American Society of International Law).

- (vi) The tax on the profits of State-owned enterprises (*az állami vállalatok nyereségadója*);
 - (vii) The tax on developed property (*a házadó*);
 - (viii) The tax on the value of developed property (*a házérték adó*);
 - (ix) The tax on undeveloped property (*a telekadó*);
 - (x) The community development tax (*a községfejlesztési hozzájárulás*);
 - (xi) The tax on dividends and payments of commercial company profits (*a kereskedelmi társaságok osztalék és nyereség kifizetései utáni illeték*);
- (hereinafter referred to as “Hungarian tax”);
- (b) In the case of the Kingdom of Belgium:
- (i) The individual income tax (*impôt des personnes physiques — personenbelasting*);
 - (ii) The corporate income tax (*impôt des sociétés — vennootschapsbelasting*);
 - (iii) The income tax on legal entities (*impôt des personnes morales — rechts-persenbelasting*);
 - (iv) The income tax on non-residents (*impôt des non-résidents — belasting der niet-verblijfhouders*);
 - (v) The exceptional and temporary solidarity contribution (*participation exceptionnelle et temporaire de solidarité — uitzonderlijke en tijdelijke solidariteitsbijdrage*);
- including the prepayments, the surcharges on these taxes and prepayments, and the supplements to the individual income tax
- (hereinafter referred to as “Belgian 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 Contracting States shall notify each other of material changes which have been made in their respective taxation laws.

CHAPTER II. DEFINITIONS

Article 3. GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:
- (a) (i) The term “Hungarian People’s Republic” used in a geographical sense means the territory of the Hungarian People’s Republic;
 - (ii) The term “Kingdom of Belgium” used in a geographical sense means the national territory and the maritime areas beyond the territorial sea over which, in accordance with international law, the Kingdom of Belgium exercises sovereign rights or its jurisdiction;
 - (b) The terms “a Contracting State” and “the other Contracting State” mean the Kingdom of Belgium or the Hungarian People’s Republic, as the context requires;
 - (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 in the State of which it is a resident;

(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 “nationals” means:

- (i) All individuals possessing the nationality of a Contracting State;
- (ii) All legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State;

(g) 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 Contracting State, except when the ship, aircraft or road vehicle is operated solely between places in the other Contracting State;

(h) The term “competent authority” means:

- (i) In the Hungarian People’s Republic, the Minister of Finance or his authorized representative;
- (ii) In the Kingdom of Belgium, the Minister of Finance or his authorized representative.

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

Article 4. RESIDENT

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person whose income or capital, 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. But, this term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

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

(a) He shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State in which he has his centre of vital interests;

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

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

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

3. Where, by reason of the provisions of paragraph 1, a person other than an individual is a resident of both Contracting States, then he shall be deemed to be a resident of the State in which his 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 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, a “permanent establishment” shall be deemed not to include:

- (a) The use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- (e) The maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- (f) Installation operations carried out by the enterprise of a Contracting State using merchandise or capital goods belonging to it and coming from that Contracting State;
- (g) The maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (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.

CHAPTER III. TAXATION OF INCOME

Article 6. INCOME FROM IMMOVABLE PROPERTY

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

2. The term “immovable property” shall have the meaning which it has under 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, rights to which the provisions of the 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 or enjoyment or the letting or use in any other form of immovable property.

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

Article 7. BUSINESS PROFITS

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

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

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 profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

5. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

6. Where profits include items of income which are dealt with separately in other articles of this Convention, then the provisions of those articles shall not be affected by the provisions of this article.

Article 8. INTERNATIONAL TRANSPORT

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

3. If the place of effective management of a shipping enterprise or of an inland waterways transport enterprise is aboard a ship or a boat, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the Contracting 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 ENTERPRISES

Where:

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

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

Article 10. DIVIDENDS

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

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State the tax so charged shall 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 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. This term

means also income, even when paid in the form of interest, which is taxable as income from capital invested by members in companies other than companies with share capital.

4. 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 cases the provisions of article 7 or article 14, as the case may be, shall apply.

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 to residents of the first State, except 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 the 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 II. 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 15 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest shall not be taxed in the State in which it arises in the case of:

- (a) Interest from commercial debt-claims including debt-claims represented by commercial paper resulting from deferred payments for goods or merchandise or services supplied by an enterprise of a Contracting State to a resident of the other Contracting State;
- (b) Interest on current accounts or on registered advance payments between banks of the Contracting States;
- (c) Interest on deposits of sums of money not represented by bearer bonds made by residents of a Contracting State in banks of the other Contracting State, including public credit institutions.

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; however, the term "interest" shall not include for the purpose of this article interest regarded as dividends under article 10, paragraph 3, second sentence.

5. The provisions of paragraphs 1, 2 and 3 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 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 cases 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 that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment 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 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 if such resident is the beneficial owner of the royalties.

2. The term “royalties” as used in this article means payments of any kind received as a consideration 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 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 cases, the provisions of article 7 or article 14, as the case may be, shall apply.

4. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the contract giving rise to the payment of royalties was concluded, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned

amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13. CAPITAL GAINS

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

2. Gains from the alienation of movable property forming part of business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains from the alienation of ships, aircraft or road vehicles operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft, road vehicles or boats, shall be taxable only in the Contracting 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 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. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

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

Article 15. DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of articles 16, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if

- (a) The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the calendar year, 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, aircraft or road vehicle operated in international traffic, or aboard a boat 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

1. 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 a similar organ of a company with share capital which is a resident of the other Contracting State may be taxed in that other State.

2. However, the remuneration which a person to whom paragraph 1 applies derives from the company in respect of the discharge of day-to-day functions of a managerial or technical nature may be taxed in accordance with the provisions of article 15.

Article 17. ENTERTAINERS AND ATHLETES

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 an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, income in respect of personal activities exercised in his capacity as such by an entertainer who is a resident of a Contracting State shall be taxable only in that State if those activities are subsidized, directly or indirectly, to a substantial extent by grants from public funds or if they are exercised in the other State within the framework of a cultural exchange programme agreed upon between the Contracting States.

Article 18. PENSIONS

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

Article 19. GOVERNMENT SERVICE

1. (a) Remuneration, other than a pension, paid 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 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. PROFESSORS, RESEARCHERS AND STUDENTS

1. Any remuneration received by professors and other members of the teaching profession, being residents of a Contracting State, who are temporarily present in the other Contracting State to teach or conduct scientific research, for a period not exceeding two years, at a university or other officially recognized educational institution, shall be taxable only in the first State.

2. Payments which a student or business apprentice 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.

3. Remuneration which a student or business apprentice 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 in respect of services rendered in the first-mentioned State shall not be taxed in the first-mentioned State, provided that those services are related to his education or training and provided that the remuneration in respect of the services is necessary to supplement the resources available to the student or business apprentice for his maintenance, education or training.

4. Payments which a student or business apprentice 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 as the recipient of a fellowship, allowance or award from a scientific, educational or charitable organization shall not be taxed in the first-mentioned State.

Article 21. OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing articles of this 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 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 cases the provisions of article 7 or article 14, as the case may be, shall apply.

CHAPTER IV. TAXATION OF CAPITAL

Article 22. CAPITAL

1. Capital represented by immovable property referred to in article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.

2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.

3. Capital represented by ships, aircraft and road vehicles operated in international traffic and by boats engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft, road vehicles and boats, 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.

CHAPTER V. ELIMINATION OF DOUBLE TAXATION

Article 23. PROVISIONS FOR THE ELIMINATION OF DOUBLE TAXATION

1. In the case of the Hungarian People's Republic, double taxation shall be avoided in the following manner:

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 Kingdom of Belgium, the Hungarian People's Republic shall, subject to the provisions of subparagraphs *(b)* and *(c)* below, exempt such income or capital from tax.

(b) Where a resident of the Hungarian People's Republic derives items of income which, in accordance with the provisions of articles 10 and 11, may be taxed in the Kingdom of Belgium, the Hungarian People's Republic shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in the Kingdom of Belgium. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from the Kingdom of Belgium.

(c) Where, in accordance with any provision of the Convention, income derived or capital owned by a resident of the Hungarian People's Republic is exempt from tax in the Hungarian People's Republic, the latter may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

2. In the case of the Kingdom of Belgium, double taxation shall be avoided in the following manner:

(a) Where a resident of the Kingdom of Belgium derives income which is not subject to the provisions of subparagraphs *(b)* and *(c)* below, or owns elements of capital which may be taxed in the Hungarian People's Republic in accordance with the provisions of the Convention, the Kingdom of Belgium shall exempt such income and such elements of capital from tax but may, in calculating the amount of tax on the remaining income or capital of that resident, apply the rate of tax which would have been applicable if such income or elements of capital had not been exempted.

(b) In the case of dividends taxable in accordance with paragraph 2 of article 10, and not exempt from Belgian tax according to subparagraph *(c)* below, interest taxable in accordance with paragraphs 2 or 7 of article 11, and royalties taxable in accordance with paragraph 5 of article 12, the fixed proportion in respect of the foreign tax for which provisions is made under Belgian law shall, under the conditions and at the rate provided for by such law, be allowed as a credit against Belgian tax relating to such income, although, in the case of dividends and interest, this rate may not be lower than the tax

imposed in the Hungarian People's Republic in accordance with paragraph 2 of article 10 or paragraph 2 of article 11, as applicable.

(c) Where a company which is a resident of the Kingdom of Belgium owns shares in a company which is a resident of and which is subject in that State to the company tax, the income which it derives from the latter company and which may be taxed in the Hungarian People's Republic in accordance with paragraph 2 of article 10 shall be exempt from the corporate income tax in the Kingdom of Belgium to the extent that exemption would have been accorded if both companies had been residents of the Kingdom of Belgium.

(d) Where, in accordance with Belgian law, losses of a Belgian enterprise which are attributable to a permanent establishment situated in the Hungarian People's Republic have been effectively deducted from the profits of that enterprise for its taxation in the Kingdom of Belgium, the exemption provided in subparagraph (a) shall not apply in the Kingdom of Belgium to the profits of other taxable periods attributable to that establishment to the extent that those profits have also been exempted from tax in the Hungarian People's Republic by reason of compensation for the said losses.

CHAPTER VI. SPECIAL PROVISIONS

Article 24. NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. 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 the 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 article 9, paragraph 7 of article 11, or paragraph 5 of article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

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

5. Nothing in this article shall be construed so as to:

- (a) Prevent a Contracting State from taxing the total amount of the profits attributable to a permanent establishment in that State of a company which is a resident of the other Contracting State or of an association having its place of effective management in the other Contracting State at the rate of tax provided by the legislation of the first State, but such rate may not exceed the maximum rate applicable to the whole or a portion of the profits of companies which are residents of the first-mentioned State;
- (b) Prevent a Contracting State from imposing its distribution tax on dividends relating to a holding effectively connected with a permanent establishment or a fixed base maintained in that State by a company which is a resident of the other State or by an association which has its place of effective management in that other State and is taxable as a body corporate in the first-mentioned State.

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

Article 25. 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 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 paragraph 1 of article 24, 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 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 this Convention.

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.

4. The competent authorities of the Contracting States shall agree on administrative measures necessary to carry out the provisions of the Convention, particularly on the proofs to be furnished by residents of either State in order to benefit in the other State from the exemptions and reductions in tax provided for in this Convention.

5. The competent authorities of the Contracting States shall communicate directly with each other for the purpose of applying the Convention.

Article 26. 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, insofar 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 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 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.

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 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 27. LIMITATION OF THE EFFECTS OF THE CONVENTION

1. Nothing in this Convention shall limit the taxation of a company which is a resident of a Contracting State, in accordance with the legislation of that State, in the event of the repurchase of its own shares or in the event of the distribution of its assets.

2. Nothing in the Convention 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.

3. For the purposes of the Convention, members of a diplomatic mission or a consular post of a Contracting State accredited to the other Contracting State or a third State who are nationals of the sending State shall be deemed to be residents of the sending State if they are liable therein to the same obligations in respect of taxes on income and on capital as are residents of that State.

4. The Convention shall not apply to international organizations, to organs or officials thereof and to persons who are members of a diplomatic mission or a consular post of a third State, being present in a Contracting State and not treated in either Contracting State as residents in respect of taxes on income and on capital.

CHAPTER VII. FINAL PROVISIONS

Article 28. ENTRY INTO FORCE

This Convention shall enter into force on the thirtieth day following the date on which the Contracting Parties notify each other that the constitutional requirements have been complied with respectively in the Kingdom of Belgium and the Hungarian People's Republic and it shall apply:

- (a) To taxes due at source on income credited or payable after 31 December of the year in which the Convention entered into force;
- (b) To other taxes imposed on income from taxable periods ending after 31 December of the same year;
- (c) To taxes on capital imposed on elements of capital existing on 1 January of any year following the year in which the Convention entered into force.

Article 29. DENUNCIATION

This Convention shall remain in force indefinitely; however, either Contracting Party may, up to 30 June inclusive of any calendar year after the fifth year following the year

of the entry into force, denounce it in writing and through the diplomatic channel to the other Contracting Party. In the event of denunciation before 1 July of such a year, the Convention shall apply for the last time:

- (a) To taxes due at source on income credited or payable at the latest on 31 December of the year of the denunciation;
- (b) To other taxes imposed on income from taxable periods ending before 31 December of the same year;
- (c) To taxes on capital imposed on elements of capital existing on 1 January of that year.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Convention.

DONE at Budapest, on 19 July 1982, in duplicate in the French, Dutch and Hungarian languages, the three texts being equally authentic. In the event of differences in the interpretation of the texts, the French text shall be authoritative.

For the Government
of the Kingdom of Belgium:

[Signed]

J. G. GERARD

For the Government
of the Hungarian People's Republic:

[Signed]

I. VINCZE

PROTOCOL

At the time of signing the Convention between the Government of the Kingdom of Belgium and the Government of the Hungarian People's Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, the undersigned have agreed on the following provisions which shall form an integral part of the Convention.

1. In respect of article 7, when a building site or construction or installation project constitutes a permanent establishment, only the profits resulting from building, construction or installation activities shall be attributable to that permanent establishment. No profit shall be attributed to the permanent establishment on account of deliveries of goods, merchandise or capital goods carried out either by the head office of the enterprise or by one of its other establishments, or by a third party.

2. In respect of article 8, the operation of ships, aircraft or road vehicles in international traffic or the operation of boats engaged in inland waterways transport shall include the activities of agencies of international transport enterprises and other additional activities of such enterprises including the operation of bus services linking a town to an airport, insofar as such activities are closely connected with international transport.

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

DONE at Budapest, on 19 July 1982, in duplicate in the French, Dutch and Hungarian languages, the three texts being equally authentic. In the event of differences in the interpretation of the texts, the French text shall be authoritative.

For the Government
of the Kingdom of Belgium:

[*Signed*]

J. G. GERARD

For the Government
of the Hungarian People's Republic:

[*Signed*]

I. VINCZE
