

No. 27511

**BRAZIL
and
HUNGARY**

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). Signed at Budapest on 20 June 1986

Authentic texts: Portuguese, Hungarian and English.

Registered by Brazil on 17 August 1990.

**BRÉSIL
et
HONGRIE**

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole). Signée à Budapest le 20 juin 1986

Textes authentiques : portugais, hongrois et anglais.

Enregistrée par le Brésil le 17 août 1990.

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL 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

The Government of the Federative Republic of Brazil 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 to further develop and facilitate their economic relationship,
Have agreed as follows:

Article I. PERSONAL SCOPE

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

Article II. TAXES COVERED

1. The taxes to which the Convention shall apply are:
 - a) In the case of Brazil: the federal income tax, excluding the supplementary income tax and the tax on activities of minor importance; (hereinafter referred to as "Brazilian tax");
 - b) In the case of the Hungarian People's Republic:
 - i) The income taxes;
 - ii) The profit taxes;
 - iii) The special corporation tax;
 - iv) The contribution to communal development of the population imposed in respect of income taxes;
 - v) The town and community contribution;
 - vi) The levy of dividends and profit distributions of commercial companies; (hereinafter referred to as "Hungarian tax").
2. The Convention shall also apply 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 above-mentioned taxes. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws.

Article III. GENERAL DEFINITIONS

1. In this Convention, unless the context otherwise requires:
 - a) The term "Brazil" means the territory of the Federative Republic of Brazil, that is, the continental and insular earth and its corresponding air space, as well as the territorial sea and its corresponding seabed and subsoil including the air space

¹ Came into force on 13 July 1990, the date of the last of the notifications by which the Contracting Parties informed each other of the completion of the constitutional requirements, in accordance with article XXVIII (2).

above the territorial sea, within which, in accordance with international law and the Brazilian laws, the rights of Brazil may be exercised;

b) The term “Hungarian People’s Republic” when used in a geographical sense means the territory of the Hungarian People’s Republic;

c) 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;

d) The term “a Contracting State” and “the other Contracting State” mean Brazil or the Hungarian People’s Republic as the context requires;

e) The term “person” comprises an individual, a company and any other body of persons;

f) The term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;

g) The terms “enterprises 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;

h) 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;

i) The term “competent authority” means:

- I. In the case of Brazil: the Minister of Finance, the Secretary of Federal Revenue or their authorized representatives;
- II. In the case of the Hungarian People’s Republic, the Minister of Finance, or his authorized representative.

2. As regards the application of this Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention.

Article IV. FISCAL DOMICILE

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then this case 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 with which his family and economic relations are closer (centre of vital interests);

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, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

Article V. PERMANENT ESTABLISHMENT

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

2. The term “permanent establishment” shall include especially:

a) A place of management;

b) A branch;

c) An office;

d) A factory;

e) A workshop;

f) A mine, quarry or other place of extraction of natural resources;

g) A building site of construction or installation or assembly project, which exists for more than six 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 of collecting information, for the enterprise;

e) The maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

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 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 VI. INCOME FROM IMMOVABLE PROPERTY

1. Income from immovable property including income from agriculture or forestry may be taxed in the Contracting State in which such property is situated.

2. *a)* Subject to the provisions of sub-paragraphs *b)* and *c)* the term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated;

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

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

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

4. 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 VII. BUSINESS PROFITS

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

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

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions, expenses which are incurred for the purposes of the per-

manent establishment including executive and general administrative expenses so incurred.

4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

5. Where profits include items of income 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 VIII. SHIPPING AND AIR TRANSPORT

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 aboard a ship, then 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. 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 IX. ASSOCIATED ENTERPRISE

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 X. 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 recipient is the beneficial owner of the dividends the tax so charged shall not exceed 15 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 beneficial owner of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such case the provisions of Article VII shall apply.

5. Where a resident of the Hungarian People's Republic has a permanent establishment in Brazil, this permanent establishment may be subject to a tax withheld at source in accordance with Brazilian law. However, such a tax cannot exceed 15 per cent of the gross amount of the profits of that permanent establishment determined after the payment of the corporate tax related to such profits.

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

7. The tax rate limitations provided for in paragraphs 2 and 5 shall not apply to dividends or profits paid or remitted before the expiration of the third calendar year following the year in which the Convention enters into force.

Article XI. INTEREST

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

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

a) 10 per cent in respect of interest from loans and credits granted by a bank for a period of at least 8 years in connection with the setting of industrial equipment or with the study, the installation or the furnishing of industrial or scientific units, as well as with public works;

b) 15 per cent of the gross amount of interest in all other cases.

3. Notwithstanding the provisions of paragraphs 1 and 2, interest arising in a Contracting State and derived:

a) By the Government of the other Contracting State including local authorities thereof;

b) By the Central Bank of that other Contracting State; or

c) By any financial institution wholly owned by that Government

shall be exempt from tax in the first-mentioned Contracting State.

4. The term "interest" as used in this Article means income from government securities, bonds or debentures, whether or not secured by mortgage and whether or

not carrying a right to participate in profits, and debt-claims of every kind as well as other income assimilated to income from money lent by the taxation law of the Contracting State in which the income arises.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such case the provisions of Articles VII shall apply.

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

7. Interest shall be deemed to arise in a Contracting State when the payer is that Contracting 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 Contracting State in which the permanent establishment or fixed base is situated.

8. 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 XII. ROYALTIES

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

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

a) 25 percent of the gross amount of royalties arising from the use or the right to use trade marks;

b) 15 percent of the gross amount of royalties in all other cases.

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

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 Con-

tracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such case the provisions of Article VII shall apply.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, the 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.

7. The tax rate limitation referred to in paragraph 2 *b*) of this Article shall not apply to royalties paid before the end of the fifth calendar year following the calendar year in which this Convention enters into force where such royalties are paid to a resident of a Contracting State which holds, directly or indirectly, at least 50 percent of the voting capital of the company paying the royalties.

Article XIII. CAPITAL GAINS

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article VI, may be taxed in the Contracting State in which the immovable property is situated.

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

3. Gains from the alienation of any property other than that referred to in paragraphs 1 and 2, may be taxed in both Contracting States.

Article XIV. 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 nature shall be taxable only in that State, unless the payment of such services or activities is borne by a permanent establishment situated in the other Contracting State or a company resident therein. In such case, the income may be taxed in that other State.

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

Article XV. DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles XVI, XVIII, XIX, XX and XXI, 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 fiscal year concerned, and

b) The remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and

c) The remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article XVI. 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 or of any council of a company which is a resident of the other Contracting State may be taxed in that other State.

Article XVII. ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles XIV and XV, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

2. Where the services mentioned in paragraph 1 of this Article are provided in a Contracting State by an enterprise of the other Contracting State, then the income derived from providing those services by such an enterprise may, notwithstanding any other provision of this Convention, be taxed in the first-mentioned State.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article income mentioned in this Article shall be exempt from tax in the Contracting State in which the activity of the entertainer or athlete is exercised provided that this activity is exercised under a cultural agreement or arrangement between the Contracting States.

Article XVIII. PENSIONS AND ANNUITIES

1. Subject to the provisions of paragraphs 2 and 3 of Article XIX, pensions and other similar remuneration not exceeding an amount equivalent to US\$ 3,000 in a calendar year and annuities not exceeding US\$ 3,000 in a calendar year paid to a resident of a Contracting State shall be taxable only in that State.

The amount of pensions or annuities which exceeds the above mentioned limit may be taxed in both Contracting States.

2. As used in this Article:

a) The term “pensions and other similar remuneration” means periodic payments made in consideration of past employment or by way of compensation for injuries suffered, in connection with past employment;

b) The term “annuity” means a stated sum payable periodically at stated times during life, or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth (other than services rendered).

Article XIX. GOVERNMENTAL PAYMENTS

1. Remuneration, not including pensions, 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.

However, such remuneration shall be taxable only in the Contracting State of which the recipient is a resident if the services are rendered in that State and the recipient of the remuneration is a resident of that State who:

a) Is a national of that State, or

b) Did not become a resident of that State solely for the purpose of performing the services.

2. 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.

However, such pensions shall be taxable only in the other Contracting State if the recipient is a national of, and a resident of, that State.

3. Any pension paid out under the social security scheme of a Contracting State to a resident of the other Contracting State shall be taxable only in the first-mentioned State.

4. The provisions of Articles XV, XVI and XVIII shall apply to remuneration and pensions paid 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 XX. TEACHERS AND RESEARCHERS

An individual who is, or was immediately before visiting a Contracting State, a resident of the other Contracting State and who, at the invitation of the first-mentioned State or of a university, college, school, museum or other cultural institution in that first-mentioned State or under an official programme of cultural exchange, is

present in that State for a period not exceeding two consecutive years solely for the purpose of teaching, giving lectures or carrying out research at such institution shall be exempt from tax in that State on his remuneration for such activity, provided that the payment of such remuneration is derived by him from outside that State.

Article XXI. STUDENTS AND BUSINESS APPRENTICES

1. An individual 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:

a) As a student at a university, college or school in that first-mentioned State, or

b) As a recipient of a grant, allowance or award for the primary purpose of study or research from a religious, charitable, scientific or educational organisation, or

c) As a member of a technical cooperation programme entered into by the Government of the other Contracting State,

shall be exempt from tax in that first-mentioned State in respect of remittances from abroad for the purpose of his maintenance, education or training.

2. An individual 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 shall be exempt from tax in the first-mentioned State for a period not exceeding two consecutive years in respect of remuneration from employment in that State necessary for his maintenance, education or training.

Article XXII. OTHER INCOME

Items of income of a resident of a Contracting State, arising in the other Contracting State and not dealt with in the foregoing Articles of this Convention, may be taxed in that other State.

Article XXIII. METHODS FOR THE ELIMINATION OF DOUBLE TAXATION

The double taxation shall be eliminated as follows:

a) In Brazil:

1. Where a resident of Brazil derives income which, in accordance with the provisions of this Convention, may be taxed in the Hungarian People's Republic, Brazil shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in the Hungarian People's Republic.

The deduction shall not, however, exceed that part of the income tax as computed before the deduction is given, which is appropriate to the income which may be taxed in the Hungarian People's Republic.

b) In the Hungarian People's Republic:

1. Where a resident of the Hungarian People's Republic derives income not mentioned in sub-paragraphs 2 and 3 which, in accordance with the provisions of this Convention, may be taxed in Brazil, the first-mentioned State shall exempt such income from tax.

2. Where a resident of the Hungarian People's Republic derives dividends, interests and royalties which in accordance with the provisions of Article X, paragraph 2, Article XI and Article XII may be taxed in Brazil, the Hungarian People's Republic shall allow as deduction from the tax on the income of that resident an amount equal to tax paid on such income in Brazil.

For this deduction, Brazilian tax shall always be considered as having been paid at the rate of 25 per cent.

Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to the income derived from Brazil,

3. Where the general Brazilian corporate tax on profits out of which the dividends are paid is reduced or eliminated, the Hungarian People's Republic shall allow as a further deduction from the Hungarian tax an amount corresponding to the Brazilian corporate tax which would have been paid if such Brazilian tax had not been reduced or eliminated, taking into account the Brazilian tax on dividends.

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

Article XXIV. NON-DISCRIMINATION

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

2. The taxation on a permanent establishment 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. 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, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of a third State, are or may be subjected.

4. In this Article, the term "taxation" means taxes which are the subject of this Convention.

Article XXV. MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the

national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.

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 an appropriate 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 not in accordance with the 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 this Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purposes of reaching an agreement in the sense of the preceding paragraphs.

Article XXVI. EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting State shall exchange such information as is necessary for the carrying out of this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons, authorities or courts other than those concerned with the assessment or collection of the taxes which are the subject of this Convention or the determination of appeals of the prosecution of offences in relation thereto.

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 the 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 XXVII. 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 XXVIII. ENTRY INTO FORCE

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

2. This Convention shall enter into force on the date of the latter of the notifications referred to in paragraph 1 and its provisions shall apply:

a) In respect of taxes withheld at source to amounts of income derived on or after the first day of January in the calendar year immediately following the year in which the latter of the notifications referred to in paragraph 1 of this Article is given and subsequent years;

b) In respect of other taxes to taxable periods beginning on or after the first day of January of the calendar year immediately following that in which the latter of the notifications referred to in paragraph 1 of this Article is given.

Article XXIX. TERMINATION

Either Contracting State may terminate this Convention after a period of three years from the date on which the Convention enters into force by giving to the other Contracting State, through diplomatic channels, a written notice of termination, provided that any such notice shall be given only on or before the thirtieth day of June in any calendar year.

In such case the Convention shall apply for the last time:

a) In respect of taxes withheld at source, to amounts derived before the expiration of the calendar year in which the notice of termination is given;

b) In respect of other taxes covered by the Convention, to amounts received during the taxable period beginning in the calendar year in which the notice of termination is given.

DONE at Budapest, this 20th day of June, 1986, in two originals, each in the Portuguese, Hungarian and English languages, all three texts being authentic. In case of divergent interpretations of the Portuguese and Hungarian texts the English text shall prevail.

For the Government
of the Federative Republic
of Brazil:

[Signed]

CELSO DINIZ

For the Government
of the Hungarian People's Republic:

[Signed]

ISTVAN HETENYI

PROTOCOL

At the moment of the signature of the Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income between the Government of the Federative Republic of Brazil and the Government of the Hungarian People's Republic, the undersigned, being duly authorized thereto, have agreed upon the following provisions which constitute an integral part of the present Convention.

1. *With reference to Article II, paragraph 1 a)*

It is understood that the supplementary income tax shall not apply to distributed profits and dividends which do not exceed 12 per cent of the capital registered with the Central Bank of Brazil.

2. *With reference to Article VII, paragraph 1*

It is understood that where a building site of construction or installation or assembly project constitutes a permanent establishment, only those profits can be attributed to that permanent establishment which derive from the activity of the building site of construction or installation or assembly project.

3. *With reference to Article VII, paragraph 3*

It is understood that the provisions of paragraph 3 of Article VII shall be construed to mean that expenses incurred for the purpose of the permanent establishment including those for executive and general administrative expenses shall be allowed as a deduction whether incurred in the State where the permanent establishment is situated or elsewhere.

4. *With reference to Article X, paragraph 3*

It is understood that in the case of Brazil the term "dividends" also includes any distribution in respect of certificates of an investment-trust which is a resident of Brazil.

5. *With reference to Article XI*

It is understood that penalty charges for late payment shall not be regarded as interest for the purpose of Article XI.

6. *With reference to Article XII, paragraph 3*

It is understood that the provisions of paragraph 3 of Article XII shall apply to payments of any kind received as a consideration for the rendering of technical assistance and technical services.

7. *With reference to Article XIV*

It is understood that the provisions of Article XIV shall apply even if the activities are exercised by a Civil Company ("Sociedade Civil").

8. *With reference to Article XVI*

It is understood that the term "any council of a company" includes in the case of Brazil the administrative council, the fiscal council and the consulting council, and in the case of the Hungarian People's Republic the supervisory board.

9. *With reference to Article XVIII, paragraph 1*

Every five years after the date in which the provisions of the Convention entered into force, the competent authorities may revise the amounts referred to in paragraph 1 of Article XVIII.

10. *With reference to Article XXIII, paragraph b)*

It is understood that for the purposes of taxation in the Hungarian People's Republic, the amount of dividends derived from Brazil shall not in any event be considered as being higher than the gross amount of such dividends which may be taxed in Brazil in accordance with Article X, paragraph 2.

11. *With reference to Article XXIV, paragraph 2*

It is understood that the provisions of paragraph 5 of Article X are not in conflict with the provisions of paragraphs of Article XXIV.

12. *With reference to Article XXIV, paragraph 3*

In the event that Brazil would allow that royalties, as defined in paragraph 3 of Article XII, paid by an enterprise which is a resident of Brazil to an enterprise which is a resident of a third State not located in Latin-America, and which holds at least 50 per cent of the capital of the enterprise which is a resident of Brazil, be deductible at the moment of the determination of the taxable profits of this enterprise, an equal deduction will be automatically applicable under similar conditions, to an enterprise which is a resident of Brazil paying royalties to an enterprise which is a resident of the Hungarian People's Republic.

It is understood that the present disposition of the Brazilian law regarding the non-deductibility of royalties as indicated above are not conflictant with paragraph 3 of Article XXIV of the Convention.

DONE at Budapest, this 20th day of June, 1986, in two originals, each in the Portuguese, Hungarian and English languages, all three texts being authentic. In case of divergent interpretations of the Portuguese and Hungarian texts the English text shall prevail.

For the Government
of the Federative Republic
of Brazil:

[Signed]

CELSO DINIZ

For the Government
of the Hungarian People's Republic:

[Signed]

ISTVAN HETENYI