

# **CONVENTION BETWEEN THE REPUBLIC OF HUNGARY AND THE UNITED MEXICAN STATES FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME**

The Republic of Hungary and the United Mexican States, 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 relationship,

Have agreed as follows:

## **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 imposed on behalf of Hungary or Mexico, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property.
3. The existing taxes to which the Convention shall apply are in particular:
  - (a) in Hungary:
    - (i) the personal income tax;
    - (ii) the corporate tax;(hereinafter referred to as „Hungarian tax”);
  - (b) in Mexico:
    - (i) the federal income tax;
    - (ii) the business flat rate tax;(hereinafter referred to as „Mexican tax”).
4. The Convention shall apply also to any identical or substantially similar taxes that 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 any significant changes that have been made in their respective taxation laws.

## **Article 3**

### **GENERAL DEFINITIONS**

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

(a) the term „Hungary” means the Republic of Hungary and, when used in a geographical sense, it means the territory of the Republic of Hungary;

(b) the term „Mexico” means the United Mexican States, when used in a geographical sense it includes the territory of the United Mexican States, as well as the integrated parts of the Federation, the islands, including the reefs and cays in the adjacent waters, the islands of Guadalupe and Revillagigedo, the continental shelf and the seabed and sub-soil of the islands, cays and reefs, the waters of the territorial seas and the inland waters and beyond them the areas over which, in accordance with the international law, Mexico may exercise its sovereign rights of exploration and exploitation of the natural resources of the seabed, sub-soil and the supra-jacent waters, and the air space of the national territory to the extent and under conditions established by international law;

(c) the terms „a Contracting State” and „the other Contracting State” mean Hungary or Mexico, as the context requires;

(d) the term „person” includes an individual, a company and any other body of persons;

(e) the term „company” means any body corporate or any entity which is treated as a body corporate for tax purposes;

(f) the term „enterprise” applies to the carrying on of any business;

(g) 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;

(h) the term „international traffic” means any transport by a ship or aircraft operated by a resident of 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 Hungary, the Minister for National Economy or his authorised representative;

(ii) in the case of Mexico, the Ministry of Finance and Public Credit;

(j) the term „national” means:

(i) any individual possessing the nationality of a Contracting State;

(ii) any legal person, partnership, association or other entity deriving its status as such from the laws in force in a Contracting State;

(k) the term „business” includes the performance of professional services and of other activities of an independent character.

2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

## **Article 4**

### **RESIDENT**

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile,

residence, place of management, place of incorporation or any other criterion of a similar nature, and also includes that State, and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

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

(a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);

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

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

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

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement and determine the mode of application of the Convention to such person. In the absence of such agreement, such person shall not be considered to be a resident of either Contracting State for purposes of enjoying benefits under the Convention.

## **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. The term „permanent establishment” likewise encompasses:

(a) a building site or a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than 6 (six) months;

(b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within a Contracting State

for a period or periods exceeding in the aggregate 183 (one hundred and eighty-three) days in any 12- (twelve-) month period;

(c) the performance of professional services or other activities of an independent character by an individual, but only where those services or activities continue within a Contracting State for a period or periods exceeding in the aggregate 183 (one hundred and eighty-three) days in any 12- (twelve-) month period.

4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:

(a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(d) the 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) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), 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 7 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. Notwithstanding the foregoing provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to reinsurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.

7. 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 and that in their commercial or financial relations with the enterprise conditions concerning the consideration for their activity are not made or imposed that differ from those generally agreed to by independent agents.

8. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

## **Article 6**

### **INCOME FROM IMMOVABLE PROPERTY**

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.
2. 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 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 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.

## **Article 7**

### **BUSINESS PROFITS**

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. The expenses to be allowed as deductions by a Contracting State shall include only expenses that are deductible under the domestic laws of that State.
4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. 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.

6. 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.

7. 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 derived by a resident of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that Contracting State.

2. Profits referred to in paragraph 1 shall not include profits from the provision of accommodation and profits from the use of any other means of transport.

3. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic by a resident of a Contracting State include profits from the rental of ships or aircraft on a full (time or voyage) basis. They also include profits from the rental of ships or aircraft on a bareboat basis if such ships or aircraft are operated in international traffic by the lessee and are derived by a resident of a Contracting State engaged in the operation of ships or aircraft in international traffic.

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**

1. Where

(a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

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

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

2. Where a Contracting State includes in the profits of an enterprise of that State – and taxes accordingly – profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits if it agrees with the adjustment made by the first-mentioned State. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

## **Article 10**

### **DIVIDENDS**

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

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:

(a) 5 (five) per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership that is not liable to tax), which holds directly at least 10 (ten) per cent of the capital of the company paying the dividends;

(b) 15 (fifteen) per cent of the gross amount of the dividends in all other cases.

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

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

3. The term „dividends” as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a 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 and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 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, 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 situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

## **Article 11**

### **INTEREST**

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

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 (ten) per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest referred to in paragraph 1 shall be taxable only in the Contracting State in which the beneficial owner is a resident if:

(a) the beneficial owner is a Contracting State, a political subdivision or a local authority thereof, or the Central Bank of a Contracting State;

(b) the interest is paid by any of the entities mentioned in sub-paragraph (a);

(c) the interest arises in Hungary and is paid in respect of a loan for a period of not less than 3 (three) years granted, guaranteed or insured by Banco de México, Banco Nacional de Comercio Exterior, S.N.C., Nacional Financiera, S.N.C. or Banco Nacional de Obras y Servicios Públicos, S.N.C., or by any other institution, as may be agreed from time to time between the competent authorities of the Contracting States; or

(d) the interest arises in Mexico and is paid in respect of a loan for a period of not less than 3 (three) years granted, guaranteed or insured, by Magyar Export-Import Bank Zrt. (Eximbank Zrt.), Magyar Exporthitel Biztosító Zrt. (Mehib Zrt.), Magyar Fejlesztési Bank Zrt. (MFB) or by any other institution, as may be agreed from time to time between the competent authorities of the Contracting States.

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, as well as all other income that is treated as income from money lent by the laws of the Contracting State in which the income arises. The term “interest” shall not include any item of income which is considered as a dividend under the provisions of paragraph 3 of Article 10. Penalty charges for late payment shall be treated as interest for the purpose of this Article.

5. The provisions of paragraph 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 arises, through a permanent establishment situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment 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 may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 (ten) per cent of the gross amount of the royalties.

3. The term „royalties” as used in this Article means payments of any kind received as a consideration for:

(a) the use of, or the right to use, any patent, trade mark, design or model, plan, secret formula or process;

(b) the use of, or the right to use, any industrial, commercial, or scientific equipment;

(c) the supply of information concerning industrial, commercial or scientific experience;

(d) the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematograph films and films or tapes for television or radio broadcasting.

Notwithstanding the provisions of Article 13, the term “royalties” also includes payments derived from the alienation of any such right or property which are contingent on the productivity, use or disposition thereof.

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

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

6. Where by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this 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 derived by a resident of a Contracting State from the alienation of shares or comparable interests deriving more than 50 (fifty) per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.

3. Gains derived by a resident of a Contracting State from the alienation of shares, participation or other rights in the capital of a company or other legal person that is a resident of the other Contracting State may be taxed in that other State, if the recipient of the gain, at any time,

during the 12 (twelve) month period preceding such alienation, together with all persons who are related to the recipient, had a participation of at least 25 (twenty-five) per cent in the capital of that company or other legal person.

4. Gains, other than those dealt with in paragraph 2 of this Article, 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 including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.

5. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in that State.

6. Gains from the alienation of any property other than that referred to in the preceding paragraphs of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

## **Article 14**

### **INCOME FROM EMPLOYMENT**

1. Subject to the provisions of Articles 15, 17, 18 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 (one hundred and eighty-three) days in any 12- (twelve-) month period commencing or ending in the tax 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 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 enterprise which operates the ship or aircraft is a resident.

## **Article 15**

### **DIRECTORS' FEES**

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

## **Article 16**

### **ARTISTES AND SPORTSPERSONS**

1. Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.
3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, income mentioned in this Article accruing to an artiste or sportsperson resident of a Contracting State shall be exempt from tax in the other Contracting State, in which the activity of the entertainer or sportsperson is exercised, provided that this activity is supported in a considerable part out of public funds of the first-mentioned State or a political subdivision or local authority thereof. In such a case, the income shall be taxable only in the Contracting State of which the artiste or sportsperson is a resident.

## **Article 17**

### **PENSIONS**

1. 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.
2. Notwithstanding the provisions of paragraph 1 of this Article, pensions and other similar remuneration paid under the provisions of a mandatory pension scheme of a Contracting State shall be taxable only in that State.

## **Article 18**

### **GOVERNMENT SERVICE**

1. (a) Salaries, wages and other similar remuneration 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 salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that 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. The provisions of Articles 14, 15 and 16 shall apply to salaries, wages and other similar remuneration 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 19**

### **STUDENTS**

Payments which a student, apprentice or business trainee who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training, receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

## **Article 20**

### **PROFESSORS AND TEACHERS**

1. A professor or teacher who visits one of the Contracting States for a period not exceeding 2 (two) years reckoned from the date he first visits that Contracting State for the sole purpose of teaching or carrying out advanced study (including research) at a university, college or other recognised research institute or other establishment for higher education in that Contracting State and who was immediately before that visit a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State on any remuneration for such teaching or study.

2. The preceding provisions of this Article shall not apply to remuneration which a professor or teacher receives for conducting research if the research is undertaken primarily for the private benefit of a specific person or persons.

## **Article 21**

### **OTHER INCOME**

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

## **Article 22**

### **LIMITATION ON BENEFITS**

1. A resident of a Contracting State shall not be granted the benefits of this Convention if the competent authority of the other Contracting State determines that the said resident actively carries out business in the other State and that the establishment or acquisition or maintenance of such person and the conduct of its operations has as one of its principal purposes the obtaining of benefits under this Convention.

2. Before a resident of a Contracting State is denied relief from taxation in the other Contracting State by reason of the preceding paragraph, the competent authorities of the Contracting States shall consult each other. Likewise, the competent authorities of the Contracting States may consult each other with regard to the application of this Article.

3. The provisions of this Convention shall not prevent a Contracting State from applying its provisions regarding thin capitalisation and controlled foreign corporation (in the case of Mexico, preferential tax regimes).

## **Article 23**

### **ELIMINATION OF DOUBLE TAXATION**

1. In Hungary double taxation shall be eliminated as follows:

(a) Where a resident of Hungary derives income which, in accordance with the provisions of this Convention may be taxed in Mexico, Hungary shall, subject to the provisions of subparagraph (b) and paragraph 3, exempt such income from tax.

(b) Where a resident of Hungary derives items of income which, in accordance with the provisions of Articles 10, 11 and 12, may be taxed in Mexico, Hungary shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Mexico. 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 Mexico.

2. In accordance with the provisions and subject to the limitations of the laws of Mexico, as may be amended from time to time without changing the general principle hereof, Mexico shall allow its residents as a credit against the Mexican tax:

(a) the Hungarian tax paid on income arising in Hungary, in an amount not exceeding the tax payable in Mexico on such income; and

(b) in the case of a company owning at least 10 (ten) per cent of the capital of a company which is a resident of Hungary and from which the first-mentioned company receives dividends, the Hungarian tax paid by the distributing company with respect to the profits out of which the dividends are paid.

3. Where in accordance with any provision of the Convention income derived by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

## **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, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement

connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

5. 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 3 (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 the Convention, provided that the competent authority of the other Contracting State is notified of the case within 4 (four) and a half years from the due date or the date of filing of the return in that other State, whichever is later. In such case, any agreement reached shall be implemented within 10 (ten) years from the due date or the date of filing of the return in that other State, whichever is later, or a longer period if permitted by the domestic law of that other State.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

5. Notwithstanding any other treaties of which the Contracting States are or may become parties, any dispute over a measure taken by a Contracting State involving a tax covered by Article 2 or, in the case of non-discrimination, any taxation measure taken by a Contracting State, including a dispute whether this Convention applies, shall be settled only under the Convention, unless the competent authorities of the Contracting States agree otherwise.

## **Article 26**

### **EXCHANGE OF INFORMATION**

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, its political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 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) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. 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.

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

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (*ordre public*).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

## **Article 27**

### **MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS**

Nothing in this 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.

## **Article 28**

### **ENTRY INTO FORCE**

1. The Contracting States shall notify each other through diplomatic channels that their domestic requirements for the entry into force of this Convention have been complied with.

2. This Convention shall enter into force on the 30<sup>th</sup> (thirtieth) day of the latter of the notifications referred to in paragraph 1 and its provisions shall have effect in both Contracting States:

(a) with respect to taxes withheld at source, on income derived on or after 1 January of the calendar year next following that in which the Convention enters into force;

(b) with respect to other taxes on income, for taxes chargeable for any tax year beginning on or after 1 January of the calendar year next following that in which the Convention enters into force.

## **Article 29**

### **TERMINATION**

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention through diplomatic channels, by giving notice of termination at least 6 (six) months before the end of any calendar year after 5 (five) years from the date of entry into force of the Convention.

In such event, this Convention shall cease to have effect in both Contracting States:

(a) with respect to taxes withheld at source, on income derived on or after 1 January of the calendar year next following that in which the notice is given;

(b) with respect to other taxes on income, to taxes chargeable for any tax year beginning on or after 1 January of the calendar year next following that in which the notice is given.

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

Done in duplicate at Mexico City this 24<sup>th</sup> day of June two thousand and eleven in the Hungarian, Spanish and English languages, each text being equally authentic. In case of divergence of interpretation the English text shall prevail.

### **PROTOCOL**

**to the Convention between the Republic of Hungary and the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed at Mexico City on 24<sup>th</sup> of June 2011**

The Republic of Hungary and the United Mexican States have in addition to the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed at Mexico City on 24<sup>th</sup> of June 2011 agreed on the following provisions, which shall form an integral part of the said Convention:

1. With reference to Article 4:

Notwithstanding the provisions of paragraph 1 of Article 4, a pension fund or investment fund established according to the laws of a Contracting State shall be regarded a resident of such Contracting State.

2. With reference to Article 12 paragraph 3:

If after the entry into force of this Convention, Mexico agrees with a third state to a provision that does not include the term „the use of, or the right to use, any industrial, commercial or scientific equipment” in the concept of royalties, subparagraph (b) of paragraph 3 of Article 12

shall automatically not be applicable between Hungary and Mexico from the date of the entry into force of the Convention between Mexico and the third state.

3. With reference to Article 15:

It is understood that the term „any other organ” means:

- (i) in the case of Hungary: the supervisory board;
- (ii) in the case of Mexico: Comisario.

4. With reference to Article 26:

If in accordance with domestic law personal data are exchanged under this Convention, the following additional provisions shall apply subject to the legal provisions in effect for each Contracting State:

- (a) The receiving agency may use such data only for the stated purpose and shall be subject to the conditions prescribed by the supplying agency.
- (b) The receiving agency shall on request inform the supplying agency about the use of the supplied data and the results achieved thereby.
- (c) Personal data may be supplied only to the responsible agencies. Any subsequent supply to other agencies may be effected only with the prior approval of the supplying agency.
- (d) The supplying agency shall be obliged to ensure that the data to be supplied are accurate and that they are necessary for and proportionate to the purpose for which they are supplied. Any bans on data supply prescribed under applicable domestic law shall be observed. If it emerges that inaccurate data or data which should not have been supplied have been supplied, the receiving agency shall be informed of this without delay. That agency shall be obliged to correct or erase such data without delay.
- (e) Upon application the person concerned shall be informed of the supplied data relating to him and of the use to which such data are to be put. There shall be no obligation to furnish this information if on balance it turns out that the public interest in withholding it outweighs the interest of the person concerned in receiving it. In all other respects, the right of the person concerned to be informed of the existing data relating to him shall be governed by the domestic law of the Contracting State in whose sovereign territory the application for the information is made.
- (f) The receiving agency shall bear liability in accordance with its domestic laws in relation to any person suffering unlawful damage as a result of supply under the exchange of data pursuant to this Convention. In relation to the damaged person, the receiving agency may not plead to its discharge that the damage had been caused by the supplying agency.
- (g) Where the domestic law of the supplying agency contains special provisions for the deletion of the personal data supplied, that agency shall inform the receiving agency accordingly. Irrespective of such law, supplied personal data shall be erased once they are no longer required for the purpose for which they were supplied.
- (h) The supplying and the receiving agencies shall be obliged to keep official records of the supply and receipt of personal data.
- (i) The supplying and the receiving agencies shall be obliged to take effective measures to protect the personal data supplied against unauthorised access, unauthorised alteration and unauthorised disclosure.

(j) The Contracting States shall ensure that the adherence to the data protection requirements set forth in this Convention is monitored by organisations which are independent from the agencies in accordance with the respective legislations of the Contracting States. In the event of breach of rights related to data protection, the affected persons shall be entitled to legal remedy, including in a court, in accordance with the respective domestic legislations of the Contracting States.

5. The present Convention shall in no way prejudice to the obligations deriving from Hungary's membership in the European Union.

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

Done in duplicate at Mexico City this 24<sup>th</sup> day of June 2011, in the Hungarian, Spanish and English languages, each text being equally authentic. In case of divergence of interpretation the English text shall prevail.