

# **SYNTHESISED TEXT OF THE MLI AND THE CONVENTION BETWEEN THE GOVERNMENT OF THE HUNGARIAN PEOPLE'S REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF FINLAND FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

## ***General disclaimer on the Synthesised text document***

This document presents the synthesised text for the application of the Convention between the Government of the Hungarian People's Republic and the Government of the Republic of Finland for the avoidance of double taxation with respect to taxes on income and on capital signed on October 25, 1978 (hereinafter referred to as "the Convention"), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by Hungary and the Republic of Finland on June 7, 2017 (hereinafter referred to as "the MLI").

The document was prepared on the basis of the position of Hungary submitted to the Depository upon ratification on 25 March 2021 and of the MLI position of the Republic of Finland submitted to the Depository upon acceptance on 25 February 2019. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on this Convention.

The authentic legal texts of the Convention and the MLI take precedence and remain the legal texts applicable.

The provisions of the MLI that are applicable with respect to the provisions of the Convention are included in boxes throughout the text of this document in the context of the relevant provisions of the Convention. The boxes containing the provisions of the MLI have generally been inserted in accordance with the ordering of the provisions of the OECD Model Tax Convention.

Changes to the text of the provisions of the MLI have been made to conform the terminology used in the MLI to the terminology used in the Convention (such as "Covered Tax Agreement" and "Convention", "Contracting Jurisdictions" and "Contracting States"), to ease the comprehension of the provisions of the MLI. The changes in terminology are intended to increase the readability of the document and are not intended to change the substance of the provisions of the MLI. Similarly, changes have been made to parts of provisions of the MLI that describe existing provisions of the Convention: descriptive language has been replaced by legal references of the existing provisions to ease the readability.

In all cases, references made to the provisions of the Convention or to the Convention must be understood as referring to the Convention as modified by the provisions of the MLI, provided such provisions of the MLI have taken effect.

### **References**

The MLI position of Hungary submitted to the Depository upon ratification on 25 March 2021 and the MLI position of the Republic of Finland submitted to the Depository upon acceptance on 25 February 2019 can be found on the MLI Depository (OECD) webpage (<http://www.oecd.org/tax/treaties/beps-ml-signatories-and-parties.pdf>).

### Entry into Effect of the MLI Provisions

The provisions of the MLI applicable to this Convention do not take effect on the same dates as the original provisions of the Convention. Each of the provisions of the MLI could take effect on different dates, depending on the types of taxes involved (taxes withheld at source or other taxes levied) and on the choices made Hungary and the Republic of Finland in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 25 March 2021 for Hungary and 25 February 2019 for the Republic of Finland.

Entry into force of the MLI: 1 July 2021 for Hungary and 1 June 2019 for the Republic of Finland.

This document provides specific information on the dates on or after which each of the provisions of the MLI has effect with respect to the Convention throughout this document.

Unless it is stated otherwise elsewhere in this document, the provisions of the MLI have effect with respect to the Convention:

- i. with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2022;
- ii. with respect to all other taxes, for taxes levied with respect to taxable periods beginning on or after 1 January 2022.

In accordance with paragraph 1 of Article 36 of the MLI, the provisions of Part VI (Arbitration) of the MLI shall have effect with respect to this Convention:

- i. with respect to cases presented to the competent authority of a Contracting State (as described in subparagraph a) of paragraph 1 of Article 19 (Mandatory Binding Arbitration) of the MLI), on or after 1 July 2021; and

In accordance with paragraph 2 of Article 36 of the MLI, Part VI (Arbitration) of the MLI will apply to a case presented to the competent authority of a Contracting State prior to 1 July 2021 only to the extent that the competent authorities of both Contracting States agree that it will apply to that specific case.

## ***CONVENTION BETWEEN THE GOVERNMENT OF THE HUNGARIAN PEOPLE'S REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF FINLAND FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL***

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

Mindful of principles set forth in the Final Act of Conference on Security and Cooperation in Europe and **[REPLACED by paragraph 1 of Article 6 of the MLI]** [desiring conclude a Convention for the avoidance of double taxation with respect to taxes on income and on capital,]

*The following paragraph 1 of Article 6 of the MLI replaces the text referring to an intent to eliminate double taxation in the preamble of this Convention:*

### **ARTICLE 6 OF THE MLI – PURPOSE OF A COVERED TAX AGREEMENT**

Intending to eliminate double taxation with respect to the taxes covered by this Convention without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Convention for the indirect benefit of residents of third jurisdictions),

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 and on capital imposed on behalf of each Contracting State or of its public communities or local authorities, irrespective of the manner in which they are levied.

(2) There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

(3) The existing taxes to which the Convention shall apply are:

(a) in Finland:

- (i) the state income and capital tax (tulo- ja varallisuusvero);
- (ii) the communal tax (kunnallisvero);
- (iii) the church tax (kirkollisvero);
- (iv) the sailor's tax (merimiesvero); and
- (v) the tax withheld at source from non-residents' income (lähdevero); (hereinafter referred to as "Finnish tax");

(b) in the Hungarian People's Republic:

- (i) the income taxes;
- (ii) the profit taxes;
- (iii) the enterprises' special tax;
- (iv) the house tax;
- (v) the tax on house values;
- (vi) the ground tax;
- (vii) the contribution to communal development;
- (viii) the levy on dividends and profit distributions of commercial companies; (hereinafter referred to as "Hungarian tax").

(4) The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of this 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 which have been made in their respective taxation laws.

## *ARTICLE 3*

### GENERAL DEFINITIONS

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

(a) the term "Finland" means the Republic of Finland and, when used in a geographical sense, means the territory of the Republic of Finland, and any area adjacent to the territorial waters of the Republic of Finland within which, in accordance with international law and under the laws of Finland, the rights of Finland with respect to the exploration and exploitation of the natural resources of the sea bed and its sub-soil 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 terms "a Contracting State" and "the other Contracting State" mean Finland or the Hungarian People's Republic, as the context requires;

(d) the term "person" comprises 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 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;

(g) the term "national" means any individual possessing the nationality of a Contracting State, and any legal person, partnership and association deriving its status as such from the laws in force in a Contracting State;

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

(i) the term "competent authority" means:

(i) in Finland, the Ministry of Finance of its authorised representative;

(ii) in the Hungarian People's Republic, the Minister of Finance or his authorised representative.

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

## *ARTICLE 4*

### 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. An undivided estate of a deceased person shall be deemed to be a resident of the Contracting State of which the deceased was a resident at the time of his death according to the preceding sentence or the provision of paragraph However, this term does not include any person who is liable to taxation in that Contracting State in respect only of income from sources in that State or capital situated therein.

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

(a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State in which he has his 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 in accordance with the provisions of Article 25.

(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 States in which its place of effective management is situated.

## *ARTICLE 5*

### PERMANENT ESTABLISHMENT

(1) For the purposes of this Convention, the term "permanent establishment" means a fixed place of business or industrial activities through which these activities of the enterprise are wholly or partly carried on.

(2) The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop; and

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

(3) A building site or construction or installation project constitutes a permanent establishment only if it lasts more than 12 months.

(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 or industrial activities 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 or industrial activities solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

(f) an installation project carried on by an enterprise of a Contracting State in connection with the delivery of machinery or equipment from that State to the other Contracting State;

(g) the maintenance of a fixed place of business or industrial activities solely for any combination of activities mentioned in sub-paragraphs (a) to (f), provided that the overall activity of the fixed place of business or industrial activities resulting from this combination is of a preparatory or auxiliary character.

(5) Notwithstanding the provisions of paragraphs 1 and 2, where a person -- other than an agent of an independent status to whom paragraph 6 applies -- is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

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

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

## *ARTICLE 6*

### 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) The term "immovable property" shall, subject to the provisions of sub-paragraphs (b) and (c), be defined in accordance with the law of the Contracting State in which the property in question is situated.

(b) The term "immovable property" 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) Where the ownership of shares or other corporate rights in a company entitles the owner of such shares or corporate rights to the enjoyment of immovable property owned by the company, the income from the direct use, letting, or use in any other form of such right to enjoyment may be taxed in the Contracting State in which the immovable property is situated.

(5) 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. The provisions of

paragraph 4 shall likewise apply to the income from a right of enjoyment referred to in that paragraph of an enterprise and to income from such right of enjoyment used for the performance of independent personal services.

## *ARTICLE 7*

### **BUSINESS PROFITS**

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

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

(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, or of the mere delivery to that permanent establishment of goods or merchandise for its use.

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

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

## *ARTICLE 8*

### **INTERNATIONAL TRANSPORT**

(1) Profits from the operation of ships 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 ship 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) Profits from the operation of road-transport vehicles in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated unless the enterprise carries on activities referred to in this paragraph in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the provisions of Article 7 shall apply.

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

(5) The provisions of paragraphs 1, 3 and 4 shall also apply to auxiliary activities directly connected with the operation of ships, aircraft or road-transport vehicles in international traffic.

## *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.

*The following paragraph 1 of Article 17 of the MLI applies and supersedes the provisions of this Convention:*

#### ARTICLE 17 OF THE MLI – CORRESPONDING ADJUSTMENTS

Where a Contracting State includes in the profits of an enterprise of that Contracting State — and taxes accordingly — profits on which an enterprise of the other Contracting State has been charged to tax in that other Contracting State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Contracting State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Contracting State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of the 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 law of that State, but the tax so charged shall not exceed:

(a) 5 per cent of the gross amount of the dividends if the recipient is a company (excluding partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;

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

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

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, or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the taxation law of the State of which the company making the distribution is a resident.

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

(5) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, 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.

### *ARTICLE 11*

## INTEREST

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

(2) The term "interest" as used in this Article means income from 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 bonds or debentures.

(3) The provisions of paragraph 1 shall not apply if the recipient of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

(4) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

## ARTICLE 12

### ROYALTIES

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

(2) However, royalties of the kind referred to in sub-paragraphs (b) and (c) of paragraph 3 may be taxed in the Contracting State in which they arise, and according to the law of that State, but the tax so charged shall not exceed 5 per cent of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

(3) The term "royalties" as used in this Article means payments of any kind received as a consideration:

(a) for 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;

(b) for the use of, or the right to use, any patent, trade mark, design, or model, plan, secret formula or process, or any industrial, commercial, or scientific equipment;

(c) for information concerning industrial, commercial or scientific experience.

(4) The provisions of paragraphs 1 and 2 shall not apply if the recipient of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

(5) Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a public community, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

(6) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

## ARTICLE 13

## CAPITAL GAINS

(1) Gains from the alienation of immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.

(2) Gains from the alienation of shares or other corporate rights referred to in paragraph 4 of Article 6 may be taxed in the Contracting State in which the immovable property owned by the company is situated.

(3) 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 Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

(4) Gains from the alienation of ships, aircraft or road-transport vehicles operated in international traffic or movable property pertaining to the operation of such ships, aircraft or vehicles, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(5) Gain from the alienation of any property other than that referred to in the preceding paragraphs shall be taxable only in the Contracting State of which the alienator is a resident.

## *ARTICLE 14*

### INDEPENDENT PERSONAL SERVICES

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

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

## *ARTICLE 15*

### DEPENDENT PERSONAL SERVICES

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

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

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the calendar year 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 in respect of an employment exercised aboard a ship or aircraft in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

## *ARTICLE 16*

### DIRECTORS' FEES

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

## *ARTICLE 17*

### ARTISTES AND ATHLETES

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

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

(3) Notwithstanding the provisions of paragraph 1, income derived by a resident of a Contracting State from activities referred to in paragraph 1 and exercised in the other Contracting State under a cultural agreement or arrangement between the Contracting States, shall not be taxed in that other State.

## *ARTICLE 18*

### PENSIONS

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

(2) Subject to the provisions of paragraph 2 of Article 19, pensions and other payments made under the social security legislation of a Contracting State shall be taxable only in that State.

## *ARTICLE 19*

### GOVERNMENT SERVICE

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

(b) 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:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of performing the services.

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

(b) However, such pension shall be taxable only in the Contracting State of which the recipient is a resident if he is a national of that State.

(3) The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with any business or industrial activities carried on by a Contracting State or a public community or a local authority thereof.

## *ARTICLE 20*

### STUDENTS

(1) Payments which a student or business, technical, agricultural or forestry apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments are made to him from sources outside that State. Income derived by such a student from a scholarship held by him for the purpose of his full time education at a university or other institution for higher education, or by such an apprentice for his training, shall be exempt from tax on that income in the Contracting State which he is visiting.

(2) A student at a university or other institution for higher education in a Contracting State, or a business, technical, agricultural or forestry apprentice who is or was immediately before visiting the other Contracting State a resident of the first-mentioned State and who is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned shall not be taxed in that other State in respect of remuneration for services rendered in that State, provided that the services are in connection with his studies or training and the remuneration constitutes earnings necessary for his maintenance.

## *ARTICLE 21*

### OTHER INCOME

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

(2) The provisions of paragraph 1 shall not apply if the recipient of the income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

## *ARTICLE 22*

### CAPITAL

(1) Capital represented by immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.

(2) Capital represented by shares or other corporate rights referred to in paragraph 4 of Article 6 may be taxed in the Contracting State in which the immovable property owned by the company is situated.

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

(4) Capital represented by ships, aircraft and road-transport vehicles operated in international traffic, and movable property pertaining to the operation of such ships, aircraft and vehicles shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

## *ARTICLE 23*

### ELIMINATION OF DOUBLE TAXATION

(1) In Finland double taxation shall be eliminated as follows:

(a) Where a resident of Finland derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the Hungarian People's Republic, Finland shall allow:

(i) as a deduction from the taxes on income of that person, an amount equal to the taxes on income paid in the Hungarian People's Republic,

(ii) as a deduction from the tax on capital of that person, an amount equal to the taxes on capital paid in the Hungarian People's Republic.

The deduction in either case shall not, however, exceed that part of the taxes on income or on capital, respectively, as computed before the deduction is given, which is appropriate, as the case may be, to the income or the capital which may be taxed in the Hungarian People's Republic.

(b) Dividends paid by a company which is a resident of the Hungarian People's Republic to a company which is a resident of Finland shall be exempt from Finnish tax to the extent that the dividends would have been exempt from tax under Finnish taxation law if both companies had been residents of Finland.

(2) In the Hungarian People's Republic double taxation shall be eliminated as follows:

(a) Where a resident of the Hungarian People's Republic derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Finland, the Hungarian People's Republic shall, subject to the provisions of sub-paragraphs (b) and (c), exempt such income or capital from tax;

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

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

## *ARTICLE 24*

### NON-DISCRIMINATION

(1) Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

(2) The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant 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 Article 9, paragraph 4 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. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

(4) Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting 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 that 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 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. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

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

(4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

*The following part VI of the MLI applies to this Convention:*

#### PART VI OF THE MLI (ARBITRATION)

##### *Article 19 (Mandatory Binding Arbitration) of the MLI*

1. Where:

a) under paragraph 1 of Article 25 of this Convention, a person has presented a case to the competent authority of a Contracting State on the basis that the actions of one or both of the Contracting States have resulted for that person in taxation not in accordance with the provisions of this Convention; and

b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 of Article 25 of the Convention, within a period of two years beginning on the start date referred to in paragraph 8 or 9 of Article 19 of the MLI, as the case may be (unless, prior to the expiration of that period the competent authorities of the Contracting States have agreed to a different time period with respect to that case and have notified the person who presented the case of such agreement),

any unresolved issues arising from the case shall, if the person so requests in writing, be submitted to arbitration in the manner described in this Part, according to any rules or procedures agreed upon by the competent authorities of the Contracting States pursuant to the provisions of paragraph 10 of Article 19 of the MLI.

2. Where a competent authority has suspended the mutual agreement procedure referred to in paragraph 1 of Article 19 of the MLI because a case with respect to one or more of the same issues is pending before court or administrative tribunal, the period provided in subparagraph b) of paragraph 1 of Article 19 of the MLI will stop running until either a final decision has been rendered by the court or administrative tribunal or the case has been suspended or withdrawn. In addition, where a person who presented a case and a competent authority have agreed to suspend the mutual agreement procedure, the period provided in subparagraph b) of paragraph 1 of Article 19 of the MLI will stop running until the suspension has been lifted.

3. Where both competent authorities agree that a person directly affected by the case has failed to provide in a timely manner any additional material information requested by either competent authority after the start of the period provided in subparagraph b) of paragraph 1 of Article 19 of the MLI, the period provided in subparagraph b) of paragraph 1 of Article 19 of the MLI shall be extended for an amount of time equal to the period beginning on the date by which the information was requested and ending on the date on which that information was provided.

4.a) The arbitration decision with respect to the issues submitted to arbitration shall be implemented through the mutual agreement concerning the case referred to in paragraph 1 of Article 19 of the MLI. The arbitration decision shall be final.

b) The arbitration decision shall be binding on both Contracting States except in the following cases:

i) if a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision. In such a case, the case shall not be eligible for any further consideration by the competent authorities. The

mutual agreement that implements the arbitration decision on the case shall be considered not to be accepted by a person directly affected by the case if any person directly affected by the case does not, within 60 days after the date on which notification of the mutual agreement is sent to the person, withdraw all issues resolved in the mutual agreement implementing the arbitration decision from consideration by any court or administrative tribunal or otherwise terminate any pending court or administrative proceedings with respect to such issues in a manner consistent with that mutual agreement.

ii) if a final decision of the courts of one of the Contracting States holds that the arbitration decision is invalid. In such a case, the request for arbitration under paragraph 1 of Article 19 of the MLI shall be considered not to have been made, and the arbitration process shall be considered not to have taken place (except for the purposes of Articles 21 (Confidentiality of Arbitration Proceedings) and 25 (Costs of Arbitration Proceedings) of the MLI). In such a case, a new request for arbitration may be made unless the competent authorities agree that such a new request should not be permitted.

iii) if a person directly affected by the case pursues litigation on the issues which were resolved in the mutual agreement implementing the arbitration decision in any court or administrative tribunal.

5. The competent authority that received the initial request for a mutual agreement procedure as described in subparagraph a) of paragraph 1 of Article 19 of the MLI shall, within two calendar months of receiving the request:

- a) send a notification to the person who presented the case that it has received the request; and
- b) send a notification of that request, along with a copy of the request, to the competent authority of the other Contracting State.

6. Within three calendar months after a competent authority receives the request for a mutual agreement procedure (or a copy thereof from the competent authority of the other Contracting State) it shall either:

- a) notify the person who has presented the case and the other competent authority that it has received the information necessary to undertake substantive consideration of the case; or
- b) request additional information from that person for that purpose.

7. Where pursuant to subparagraph b) of paragraph 6 of Article 19 of the MLI, one or both of the competent authorities have requested from the person who presented the case additional information necessary to undertake substantive consideration of the case, the competent authority that requested the additional information shall, within three calendar months of receiving the additional information from that person, notify that person and the other competent authority either:

- a) that it has received the requested information; or
- b) that some of the requested information is still missing.

8. Where neither competent authority has requested additional information pursuant to subparagraph b) of paragraph 6 of Article 19 of the MLI, the start date referred to in paragraph 1 of Article 19 of the MLI shall be the earlier of:

- a) the date on which both competent authorities have notified the person who presented the case pursuant to subparagraph a) of paragraph 6 of Article 19 of the MLI; and
- b) the date that is three calendar months after the notification to the competent authority of the other Contracting State pursuant to subparagraph b) of paragraph 5 of Article 19 of the MLI.

9. Where additional information has been requested pursuant to subparagraph b) of paragraph 6 of Article 19 of the MLI, the start date referred to in paragraph 1 of Article 19 of the MLI shall be the earlier of:

- a) the latest date on which the competent authorities that requested additional information have notified the person who presented the case and the other competent authority pursuant to subparagraph a) of paragraph 7 of Article 19 of the MLI; and
- b) the date that is three calendar months after both competent authorities have received all information requested by either competent authority from the person who presented the case.

If, however, one or both of the competent authorities send the notification referred to in subparagraph b) of paragraph 7 of Article 19 of the MLI, such notification shall be treated as a request for additional information under subparagraph b) of paragraph 6 of Article 19 of the MLI.

10. The competent authorities of the Contracting States shall by mutual agreement pursuant to Article 25 of this Convention settle the mode of application of the provisions contained in this Part, including the minimum information necessary for each competent authority to undertake substantive consideration of the case. Such an agreement shall

be concluded before the date on which unresolved issues in a case are first eligible to be submitted to arbitration and may be modified from time to time thereafter.

12. Notwithstanding the other provisions of this Article of the MLI:

a) any unresolved issue arising from a mutual agreement procedure case otherwise within the scope of the arbitration process provided for by the MLI shall not be submitted to arbitration, if a decision on this issue has already been rendered by a court or administrative tribunal of either Contracting State;

b) if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the Contracting States, a decision concerning the issue is rendered by a court or administrative tribunal of one of the Contracting States, the arbitration process shall terminate.

*Article 20 (Appointment of Arbitrators) of the MLI*

1. Except to the extent that the competent authorities of the Contracting States mutually agree on different rules, paragraphs 2 through 4 of Article 20 of the MLI shall apply for the purposes of this Part.

2. The following rules shall govern the appointment of the members of an arbitration panel:

a) The arbitration panel shall consist of three individual members with expertise or experience in international tax matters.

b) Each competent authority shall appoint one panel member within 60 days of the date of the request for arbitration under paragraph 1 of Article 19 of the MLI. The two panel members so appointed shall, within 60 days of the latter of their appointments, appoint a third member who shall serve as Chair of the arbitration panel. The Chair shall not be a national or resident of either Contracting State.

c) Each member appointed to the arbitration panel must be impartial and independent of the competent authorities, tax administrations, and ministries of finance of the Contracting States and of all persons directly affected by the case (as well as their advisors) at the time of accepting an appointment, maintain his or her impartiality and independence throughout the proceedings, and avoid any conduct for a reasonable period of time thereafter which may damage the appearance of impartiality and independence of the arbitrators with respect to the proceedings.

3. In the event that the competent authority of a Contracting State fails to appoint a member of the arbitration panel in the manner and within the time periods specified in paragraph 2 of Article 20 of the MLI or agreed to by the competent authorities of the Contracting States, a member shall be appointed on behalf of that competent authority by the highest ranking official of the Centre for Tax Policy and Administration of the Organisation for Economic Co-operation and Development that is not a national of either Contracting State.

4. If the two initial members of the arbitration panel fail to appoint the Chair in the manner and within the time periods specified in paragraph 2 of Article 20 of the MLI or agreed to by the competent authorities of the Contracting States, the Chair shall be appointed by the highest ranking official of the Centre for Tax Policy and Administration of the Organisation for Economic Co-operation and Development that is not a national of either Contracting State.

*Article 21 (Confidentiality of Arbitration Proceedings) of the MLI*

1. Solely for the purposes of the application of the provisions of this Part and of the provisions of this Convention and of the domestic laws of the Contracting States related to the exchange of information, confidentiality, and administrative assistance, members of the arbitration panel and a maximum of three staff per member (and prospective arbitrators solely to the extent necessary to verify their ability to fulfil the requirements of arbitrators) shall be considered to be persons or authorities to whom information may be disclosed. Information received by the arbitration panel or prospective arbitrators and information that the competent authorities receive from the arbitration panel shall be considered information that is exchanged under the provisions of this Convention related to the exchange of information and administrative assistance.

2. The competent authorities of the Contracting States shall ensure that members of the arbitration panel and their staff agree in writing, prior to their acting in an arbitration proceeding, to treat any information relating to the arbitration proceeding consistently with the confidentiality and nondisclosure obligations described in the provisions of this Convention related to exchange of information and administrative assistance and under the applicable laws of the Contracting States.

*Article 22 (Resolution of a Case Prior to the Conclusion of the Arbitration) of the MLI*

For the purposes of this Part and the provisions of this Convention that provide for resolution of cases through mutual agreement, the mutual agreement procedure, as well as the arbitration proceeding, with respect to a case shall terminate if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the Contracting States:

- a) the competent authorities of the Contracting States reach a mutual agreement to resolve the case; or
- b) the person who presented the case withdraws the request for arbitration or the request for a mutual agreement procedure.

*Article 23 (Type of Arbitration Process) of the MLI*

(Alternative 2 – Independent opinion)

2. Except to the extent that the competent authorities of the Contracting States mutually agree on different rules, the following rules shall apply with respect to an arbitration proceeding:

a) After a case is submitted to arbitration, the competent authority of each Contracting State shall provide any information that may be necessary for the arbitration decision to all panel members without undue delay. Unless the competent authorities of the Contracting States agree otherwise, any information that was not available to both competent authorities before the request for arbitration was received by both of them shall not be taken into account for purposes of the decision.

b) The arbitration panel shall decide the issues submitted to arbitration in accordance with the applicable provisions of this Convention and, subject to these provisions, of those of the domestic laws of the Contracting States. The panel members shall also consider any other sources which the competent authorities of the Contracting States may by mutual agreement expressly identify.

c) The arbitration decision shall be delivered to the competent authorities of the Contracting States in writing and shall indicate the sources of law relied upon and the reasoning which led to its result. The arbitration decision shall be adopted by a simple majority of the panel members. The arbitration decision shall have no precedential value.

5. Prior to the beginning of arbitration proceedings, the competent authorities of the Contracting States shall ensure that each person that presented the case and their advisors agree in writing not to disclose to any other person any information received during the course of the arbitration proceedings from either competent authority or the arbitration panel. The mutual agreement procedure under the Convention, as well as the arbitration proceeding under this Part, with respect to the case shall terminate if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the Contracting States, a person that presented the case or one of that person's advisors materially breaches that agreement.

*Article 24 (Agreement on a Different Resolution) of the MLI*

2. Notwithstanding paragraph 4 of Article 19 of the MLI, an arbitration decision pursuant to Part VI of the MLI shall not be binding on the Contracting States and shall not be implemented if the competent authorities of the Contracting States agree on a different resolution of all unresolved issues within three calendar months after the arbitration decision has been delivered to them.

*Article 25 (Costs of Arbitration Proceedings) of the MLI*

In an arbitration proceeding under this Part, the fees and expenses of the members of the arbitration panel, as well as any costs incurred in connection with the arbitration proceedings by the Contracting States, shall be borne by the Contracting States in a manner to be settled by mutual agreement between the competent authorities of the Contracting States. In the absence of such agreement, each Contracting State shall bear its own expenses and those of its appointed panel member. The cost of the chair of the arbitration panel and other expenses associated with the conduct of the arbitration proceedings shall be borne by the Contracting States in equal shares.

*Article 26 (Compatibility) of the MLI*

2. Any unresolved issue arising from a mutual agreement procedure case otherwise within the scope of the arbitration process provided for in this Part shall not be submitted to arbitration if the issue falls within the scope of a case with respect to which an arbitration panel or similar body has previously been set up in accordance with a bilateral or multilateral convention that provides for mandatory binding arbitration of unresolved issues arising from a mutual agreement procedure case.

3. Nothing in this Part shall affect the fulfilment of wider obligations with respect to the arbitration of unresolved issues arising in the context of a mutual agreement procedure resulting from other conventions to which the Contracting States are or will become parties.

*Subparagraph a) of paragraph 2 of Article 28 (Reservations) of the MLI*

Pursuant to Article 28(2)(a) of the Convention, Hungary formulates the following reservation(s) with respect to the scope of cases that shall be eligible for arbitration under the provisions of Part VI.

1. Hungary reserves the right to exclude from the scope of Part VI any case that falls within the scope of application of the Convention on the Elimination of Double Taxation in Connection with the Adjustment of Profits of Associated Enterprises (90/436/EEC) as amended or any subsequent regulation replacing, amending or updating these rules.
2. Hungary reserves the right to exclude from the scope of Part VI any case that falls within the scope of application of the COUNCIL DIRECTIVE (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union or any subsequent regulation replacing, amending or updating these rules.
3. Hungary reserves the right to exclude from the scope of Part VI – on a case-by-case basis – any case where penalties were imposed in relation to the adjusted income or capital for tax fraud, wilful default and gross negligence in accordance with Hungary’s domestic rules included in Section 41/J. paragraph (12) of the Act XXXVII of 2013 on Certain Rules of International Administrative Cooperation in Relation to Taxes and Other Public Duties. Any subsequent provision replacing, amending or updating these rules would also be included in this reservation. Hungary shall notify the Depository of any such subsequent provision.
4. Hungary reserves the right to exclude from the scope of Part VI any case which the competent authorities of both Contracting Jurisdictions agree are not suitable for arbitration. Such agreement shall be reached before the date on which arbitration proceedings would otherwise have begun and shall be notified to the person who presented the case.
5. Hungary reserves the right to exclude from the scope of Part VI any case which relates to questions of dispute relating to income or capital earned in a tax year commencing before 1 January 2018.

Pursuant to subparagraph a) of paragraph 2 of Article 28 of the MLI, the Republic of Finland formulates the following reservations with respect to the scope of cases that shall be eligible for arbitration under the provisions of Part VI of the MLI:

1. Finland reserves the right to exclude from the scope of [Part VI of the MLI] cases involving the application of domestic anti-avoidance rules of either [Contracting State]. For this purpose, Finland's domestic anti-avoidance rules shall include Act on Assessment Procedure (verotusmenettelystä annettu laki (1558/1995)) sections 27 - 30, Act on the Taxation of Business Profits and Income from Professional Activities (elinkeinotulon verottamisesta annettu laki (360/1968)) section 6 a, subsection 9 and section 52 h and Act on the Taxation of Shareholders in Controlled Foreign Companies (ulkomaisten väliyhteisöjen osakkaiden verotuksesta annetun laki (1217/1994)). Any subsequent provisions replacing, amending or updating these anti-avoidance rules would also be included in this reservation. Finland shall notify the Depository of any such subsequent provisions.

2. Finland reserves the right to exclude from the scope of [Part VI of the MLI] cases involving conduct for which the taxpayer or a person acting on the taxpayer’s behalf has been found guilty by a court of tax fraud or other tax related criminal offence in either [Contracting State]. For this purpose, Finland's domestic rules shall include the Criminal Code (rikoslaki (39/1889)) chapter 29 sections 1-4. Any subsequent provisions replacing, amending or updating these rules would also be included in this reservation. Finland shall notify the Depository of any such subsequent provisions.

3. Finland reserves the right to exclude from the scope of [Part VI of the MLI] cases concerning items of income or capital where there is no double taxation. Double taxation means that both [Contracting States] have imposed taxes in respect of the same taxable income or capital giving rise to either additional tax charge, increase in tax liabilities or cancellation or reduction of losses, which could be used to offset taxable profits.

4. Finland reserves the right to exclude from the scope of [Part VI of the MLI]:

a) with respect to taxes withheld at source on amounts paid or credited to non-residents, cases which concern taxable events giving rise to such taxes that occur before the reference date;

b) with respect to all other taxes, cases which concern taxes levied with respect to taxable periods that begin before the reference date.

For the purposes of this reservation, “the reference date” is the latest of:

i) the date of entry into effect of [the MLI] in both [Contracting States] with respect to such taxes;

ii) the first day of January of the calendar year next following the expiration of a period of six calendar months beginning on the date of the communication by the Depository of the latest definitive reservation withdrawal or notification which results in the application of [Part VI of the MLI] between both [Contracting States]; and

iii) where the case is a type of case that would be potentially eligible for arbitration as a result of the withdrawal, subsequent to the entry into effect of [Part VI of the MLI] as between both [Contracting States], of [Contracting

State's] reservation made pursuant to Article 28(2) or Article 19(12) [of the MLI], the first day of January of the calendar year next following the expiration of a period of six calendar months beginning on the date of the communication of the Depositary of the withdrawal of the reservation.

5. Finland reserves the right to exclude from the scope of [Part VI of the MLI] all cases where an application has been filed under the Convention on the Elimination of Double Taxation in Connection with the Adjustment of Profits of Associated Enterprises (90/436/EEC) - as amended, or under other instruments agreed by the member states of the European Union or under domestic rules which implement such instruments.

## ARTICLE 26

### EXCHANGE OF INFORMATION

(1) The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

(a) to carry out administrative measures at variance with the laws or 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 27

### MEMBERS OF DIPLOMATIC OR CONSULAR MISSIONS

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

*The following paragraph 1 of Article 7 of the MLI applies and supersedes the provisions of this Convention:*

#### ARTICLE 7 OF THE MLI – PREVENTION OF TREATY ABUSE

*(Principal purposes test provision)*

Notwithstanding any provisions of this Convention, a benefit under this Convention shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention.

## ARTICLE 28

### ENTRY INTO FORCE

(1) The Governments of 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) The Convention shall enter into force sixty days after the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect:

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

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

## *ARTICLE 29*

### TERMINATION

This Convention shall remain in force until terminated by the Government of a Contracting State. Either Government may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year following after the period of five years from the date on which the Convention enters into force. In such event, the Convention shall cease to have effect:

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

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

In witness whereof the undersigned, duly authorised thereto, have signed this Convention.

Done in duplicate at Budapest this 25th day of October 1978, in the English language.

# PROTOCOL

At the signing today of the Convention between the Government of Finland and the Government of the Hungarian People's Republic for the avoidance of double taxation with respect to taxes on income and on capital the undersigned have agreed upon the following provisions which shall form an integral part of the Convention:

## **1. Ad Article 2, paragraph 3**

The existing Hungarian income taxes (a jövedelemadók) covered by sub-paragraph (b)(i) of paragraph 3 of Article 2 of the Convention are:

- (a) the general income tax (az általános jövedelemadó);
- (b) the income tax of those practising intellectual activity (a szellemi tevékenységet folytatók jövedelemadója); and
- (c) the income tax on household and auxiliary farms (a háztáji és kisegítő gazdaságok jövedelemadója).

The existing Hungarian profit taxes (a nyereségadók) covered by sub-paragraph (b)(ii) of paragraph 3 of Article 2 of the Convention are:

- (a) the profit tax (a nyereségadó);
- (b) the profit tax of economic associations with foreign participation (a külföldi részvétellel működő gazdasági társulások nyereségadója);
- (c) the profit tax of state enterprises (az állami vállalatok nyereségadója); and
- (d) the taxes of foreigners' commercial and other business agencies (a külföldiek kereskedelmi és egyéb, üzleti jellegű képviselőiténak adója).

## **2. Ad Article 5, paragraph 3**

Notwithstanding the provisions of paragraph 3 of Article 5 of the Convention, the competent authorities of the Contracting State may, by mutual agreement, decide in each case that a project on erecting a substantial complete project for production, e.g. a power plant or paper mill, shall not constitute a permanent establishment even when it lasts more than 12 months. The period of time referred to in the preceding sentence shall in no case, however, exceed 24 months.

## **3. Ad Article 8, paragraph 1**

Profits from the operation of ships or aircraft in international traffic shall be deemed to include, i.a., the sale of passage tickets.

## **4. Ad Article 10, paragraph 2, sub-paragraph (a)**

Economic associations with foreign participation can be established in the Hungarian People's Republic also in the form of unlimited liability partnerships. Where such an association is established in that form, the provisions of Article 10 shall be applied correspondingly to the dividends paid by the association.

In witness whereof the undersigned, duly authorised thereto, have signed this Protocol.

Done in duplicate at Budapest this 25th day of October 1978, in the English language.