

**SYNTHESISED TEXT OF THE MLI AND THE CONVENTION BETWEEN THE
REPUBLIC OF HUNGARY AND THE REPUBLIC OF KAZAKHSTAN FOR THE
AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL
EVASION 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 Republic of Hungary and the Republic of Kazakhstan for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital signed on December 7, 1994 (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 on June 7, 2017 and by the Republic of Kazakhstan on June 25, 2018 (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 consolidated MLI position of the Republic of Kazakhstan submitted to the Depository on 26 November 2020. 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made to parts of provisions of the MLI that describe existing provisions of the Convention: descriptive language has been replaced by legal references of the existing provisions to ease the readability.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 Kazakhstan submitted to the Depository upon ratification on 24 June 2020 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 Kazakhstan in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 25 March 2021 for Hungary and 24 June 2020 and 26 November 2020 for the Republic of Kazakhstan.

Entry into force of the MLI: 1 July 2021 for Hungary and 1 October 2020 for the Republic of Kazakhstan.

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.

CONVENTION BETWEEN THE REPUBLIC OF HUNGARY AND THE REPUBLIC OF KAZAKHSTAN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

Republic of Kazakhstan and Republic of Hungary desiring to enhance and develop economic, scientific, technical and cultural relations between both States and

[REPLACED by paragraph 1 of Article 6 of the MLI] [desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,]

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 a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

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

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

(a) in the Republic of Hungary:

- (i) the income tax on individuals;
 - (ii) the corporation tax;
 - (iii) taxes on landed property;
 - (iv) the building tax
- (hereinafter referred to as "Hungarian tax").

(b) in the Republic of Kazakhstan:

- (i) the tax on profit and income of enterprises;
 - (ii) the income tax on individuals;
 - (iii) the property tax on individuals
- (hereinafter referred to as "Kazakhstan tax").

(4) This 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:

- (i) "Hungary" when used in a geographical sense means the Republic of Hungary;
- (ii) "Kazakhstan" means the Republic of Kazakhstan. When used in a geographical sense, the term "Kazakhstan" includes the territorial waters, and also the exclusive economic zone and the continental shelf over which Kazakhstan may exercise sovereign rights and jurisdiction in accordance with international law and in which the laws relating to Kazakhstan tax are applicable;

(b) the term "person" includes an individual, a company or any other body of persons;

(c) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes, and in the case of Kazakhstan includes a joint stock company, a limited liability company or any other legal entity or other organization which is liable to a tax on profits;

(d) the terms "a Contracting State" and "the other Contracting State" mean Hungary or Kazakhstan as the context requires;

(e) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

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

(g) the term "competent authority" means:

- (i) in Hungary: the Minister of Finance or his authorized representative;
- (ii) in Kazakhstan: the Minister of Finance or his authorized representative;

(h) the term "national" means:

- (i) any individual possessing the citizenship of a Contracting State;
- (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;

(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 this Convention applies.

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. The term shall include also the Government of a Contracting State, a political subdivision or local authority thereof, or an agency of such Government, subdivision or authority. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

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

(a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State 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 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 of the State of which he is a citizen;

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

(3) Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated. If the place of effective management cannot be determined, then the competent authorities of the Contracting States shall settle the question by mutual agreement.

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" also includes:

(a) a building site or construction or installation or assembly project or supervisory activities connected therewith, but only if such site or project lasts more than 12 months, or such services continue for more than 12 months; and

(b) an installation or structure used for the exploration of natural resources, or supervisory activities connected therewith, or a drilling rig or ship used for the exploitation of natural resources, but only if such use lasts more than 12 months, or such services continue for more than 12 months; and

(c) the furnishing of services, including consultancy services, by a resident through employees or other personnel engaged by the resident for such purpose, but only where activities of that nature continue (for the same or a connected project) within the country for 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 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 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 the combination is of 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 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, aircraft or road-transport vehicles shall not be regarded as immovable property.

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

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

ARTICLE 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:

(a) that permanent establishment;

(b) sales in that other State of goods or merchandise of the same or similar kind as those sold through the 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. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

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

(5) Where the information available to or readily obtainable by the competent authority of a Contracting State is not adequate to determine the profits or expenses of a permanent establishment, profits may be calculated in accordance with the tax laws of that State, provided that the application of such laws is in accordance with the principles of this Convention.

(6) Where profits include items of income or capital gains 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.

(7) 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.

ARTICLE 8

INTERNATIONAL TRANSPORT

(1) Profits derived by a resident of a Contracting State from the operation of ships, aircraft or road-transport vehicles in international traffic shall be taxable only in that State.

(2) The provisions of paragraph 1 shall also apply to profits derived 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 may 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 this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

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 laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

(a) 5% of the gross amount of the dividends if the beneficial owner is a company which holds directly or indirectly at least 25% of the capital of the company paying the dividends;

(b) 15% 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.

(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 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, 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 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.

(6) A company which is a resident of a Contracting State and which has a permanent establishment in the other Contracting State may be subject in that Contracting State to tax in addition to the tax on profits. Such tax, however, shall not exceed 5% of the portion of the profits of the company subject to tax in the other Contracting 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 recipient is the beneficial owner of the interest the tax so charged shall not exceed 10% of the gross amount of the interest.

(3) Notwithstanding the provisions of paragraph 2 of this Article, interest arising in a Contracting State shall be exempt from tax in that State in respect of a loan wholly provided, guaranteed or insured by the Government or Central Bank of the other Contracting State or a local authority thereof, or any agency or instrumentality of that Government or local authority.

(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. Penalty charges for late payment shall not be regarded as interest for the purposes of this Article.

(5) The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, 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 case, the provisions of Article 7 (Business profits) or Article 14 (Independent personal services), as the case may be, shall apply.

(6) Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

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

[REPLACED by paragraph 1 of Article 7 of the MLI¹] [(8) The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid to take advantage of this Article by means of that creation or assignment.]

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 recipient is the beneficial owner of such royalties, the tax so charged shall not exceed 10% 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 the use of, or the right to use, any copyright of literary, artistic or scientific work including computer programs, cinematograph films, and films or tapes for television or radio broadcasting, any patent, trade mark, design or model, plan, secret

¹ Refer to the box following Article 27 of the Convention

formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

(4) 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, 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 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 political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

(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.

[REPLACED by paragraph 1 of Article 7 of the MLI²] [(7) The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the rights in respect of which the royalties are paid to take advantage of this Article by means of that creation or assignment.]

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 (Income from immovable property) and situated in the other Contracting State may be taxed in that other State.

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

(3) Gains derived by a resident of a Contracting State 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 road-transport vehicles shall be taxable only in that Contracting State.

(4) Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 14

INDEPENDENT PERSONAL SERVICES

(1) Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that Contracting State unless such services are performed in the other Contracting State, and:

(a) the income is attributable to a fixed base which the individual has regularly available to him in the other State; or

² Refer to the box following Article 27 of the Convention

(b) such individual is present in that other State for a period or periods exceeding in the aggregate 183 days in any consecutive twelve-month period.

In such case the income attributable to the services may be taxed in that other State in accordance with principles similar to those of Article 7 for determining the amount of business profits and attributing business profits to a permanent establishment.

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

ARTICLE 15

DEPENDENT PERSONAL SERVICES

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

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

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any consecutive twelve-month period; and

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

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

(3) Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship, aircraft or road-transport vehicle operated in international traffic, may be taxed in the Contracting State in which the enterprise operating the ship, aircraft or road-transport vehicle is a resident.

ARTICLE 16

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 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 SPORTSMEN

(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 a sportsman, 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 sportsman in his capacity as such accrues not to the entertainer or sportsman 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 sportsman are exercised.

(3) Notwithstanding the provisions of paragraphs 1 and 2, income mentioned in this Article shall be exempt from tax in the Contracting State in which the activity of the entertainer or sportsman is exercised provided that this activity is supported in a considerable part out of public funds of this State or of the other State or the activity is exercised under a cultural agreement or arrangement between the Contracting States.

ARTICLE 18

PENSIONS AND OTHER PAYMENTS

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

(2) The term "annuity" means a stated sum payable to an individual periodically at stated times during his life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

(3) Alimony and other similar amounts (including child support payments) arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State.

ARTICLE 19

GOVERNMENT SERVICE

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

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

(i) is a national of that State; or

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

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

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

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

ARTICLE 20

STUDENTS, TRAINEES, TEACHERS AND RESEARCHERS

(1) An individual who is a resident of a Contracting State at the beginning of his visit to the other Contracting State and who is temporarily present in that other State for the primary purpose of:

(a) studying at a university or other accredited educational institution in that other State, or

(b) securing training required to qualify him to practice a profession or professional specialty,

shall be exempt from tax in that other State with respect to payments from abroad for the purpose of his maintenance, education or study.

(2) The exemption in paragraph 1 shall apply only for such period of time as is ordinarily necessary to complete the study or training, except that no exemption for training shall extend for a period exceeding 5 years.

(3) Remuneration received for teaching or scientific research by an individual who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first State for the purpose of scientific research or for teaching at a university or other accredited educational institution shall be exempt from tax in the first State for a period not exceeding 2 years from the date of his/her first arrival in the first-mentioned State.

ARTICLE 21

OTHER INCOME

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

(2) The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such 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 referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.

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

(3) Capital represented by ships, aircraft and road-transport vehicles owned by a resident of a Contracting State and operated in international traffic and by movable property pertaining to the operation of such ships, aircraft and road-transport vehicles shall be taxable only in that Contracting State.

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

ARTICLE 23

METHODS FOR ELIMINATION OF DOUBLE TAXATION

(1) In the case of Hungary, double taxation shall be eliminated as follows:

(a) Where a resident of Hungary derives income or owns capital which, in accordance with the provisions of this Convention may be taxed in Kazakhstan, Hungary shall, subject to the provisions of subparagraphs (b) and (c), exempt such income or capital 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 Kazakhstan, Hungary shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Kazakhstan. 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 Kazakhstan.

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

(2) In the case of Kazakhstan, double taxation shall be eliminated as follows:

(a) Where a resident of Kazakhstan derives income or owns capital which, in accordance with the provisions of this Convention may be taxed in Hungary, Kazakhstan shall allow:

(i) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid Hungary;

(ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid Hungary.

Such deduction in either case shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or capital which may be taxed in Hungary.

(b) Where a resident of Kazakhstan derives income or owns capital which, in accordance with the provisions of this Convention, shall be taxable only in Hungary, Kazakhstan may include this income or capital in the tax base but only for the purposes of determining the rate of tax on such other income or capital as is taxable in Kazakhstan.

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) Stateless persons who are residents 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 the State concerned in the same circumstances are or may be subjected.

(3) 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.

(4) 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. 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.

(5) 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 that first-mentioned State are or may be subjected.

(6) Nothing contained in this Article shall be construed as obliging either Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for tax purposes which are granted to its own residents.

(7) 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 representatives of the competent authorities of the Contracting States.

ARTICLE 26

EXCHANGE OF INFORMATION

(1) The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes 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 one of the Contracting States the obligation:

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

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

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

ARTICLE 27

DIPLOMATIC AGENTS AND CONSULAR OFFICERS

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

The following paragraph 1 of Article 7 of the MLI replaces paragraph 8 of Article 11 and the paragraph 7 of Article 12 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 Contracting Parties shall notify each other that their constitutional requirements for the entry into force of this Convention have been complied with.

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

(a) in respect of taxes withheld at source, to amounts derived on or after 1st 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 taxes chargeable for any taxable year beginning on or after 1st 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 one of the Contracting States. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year beginning after the expiry of five years from the date of the entry into force of this Convention. In such event, the Convention shall cease to have effect:

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

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

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

Done at Budapest, this 7th day of December, 1994, in two originals, each in the Hungarian, Kazakh, Russian and English languages, all texts being equally authentic. In case of difference in interpretation, the English text shall be used as a reference.