

TAX CONVENTION WITH THE HUNGARIAN PEOPLE'S REPUBLIC

*Convention, with Exchange of Notes, Signed at Washington February 12, 1979;
Ratification Advised by the Senate of the United States of America July 9, 1979;
Ratified by the President of the United States of America August 7, 1979;
Ratifications Exchanged at Budapest September 18, 1979;
Proclaimed by the President of the United States of America November 28, 1979;
Entered into Force September 18, 1979.*

GENERAL EFFECTIVE DATE UNDER ARTICLE 25: 1 JANUARY 1980

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MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE CONVENTION BETWEEN THE GOVERNMENT OF THE
UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE
HUNGARIAN PEOPLE'S REPUBLIC FOR THE AVOIDANCE OF
DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO
TAXES ON INCOME, SIGNED AT WASHINGTON, FEBRUARY 12, 1979

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, April 25, 1979.

THE PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to transmit to you, with a view to its transmission to the Senate for advice and consent to ratification, a Convention between the Government of the United States of America and the Government of the Hungarian People's Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Washington, February 12, 1979.

This Convention is the first income tax convention to be negotiated between the United States and the Hungarian People's Republic.

The Convention clarifies the rules governing income tax jurisdiction and sets certain limits on the rights of each country to tax income derived within its territory by residents of the other country. For example, the treaty provides for exemption at source of interest and royalties derived by a resident of the other country. It also limits the tax on dividends paid to a resident of the other country to 15 percent in general and to 5 percent on dividends paid to a parent corporation. Employees of United States companies will generally not become subject to tax by Hungary unless they remain there more than six months of the year, and employees of Hungarian enterprises will be exempt from United States income tax under the same conditions.

The Convention also ensures nondiscriminatory taxation and provides for exchange of information and administrative cooperation between the tax authorities of the two countries to avoid double taxation and prevent fiscal evasion with respect to taxes on income. An accompanying exchange of notes clarifies certain technical points and provides for adjustments by the tax authorities in cases where transactions between related parties are at other than arm's length prices, and provides for assistance in collecting additional tax when reductions in tax under the Convention benefit persons not entitled to the benefits of the Convention.

The Convention will enter into force as soon as the parties have notified each other that their respective constitutional requirements have been met. Its provisions will have effect for withholding taxes for amounts paid or credited on or after the first day of the second month next following the entry into force of the Convention, and for other taxes, for taxable periods beginning on or after the first day of January next following the date on which the Convention enters into force.

This Convention will be in force for at least five years and will remain in force thereafter unless terminated by one of the parties. After five years, either party may terminate the Convention by giving at least six months' notice through diplomatic channels. In such event, the Convention would cease to have effect as of January 1 following such notification.

A technical memorandum explaining the provisions of the Convention will be prepared by the Department of the Treasury and submitted to the Senate Committee on Foreign Relations.

The Department of the Treasury with the cooperation of the Department of State, was primarily responsible for the negotiation of this Convention. It has the approval of both Departments.

Respectfully submitted,

CYRUS VANCE.

LETTER OF TRANSMITTAL

THE WHITE HOUSE,
May 9, 1979.

To the Senate of the United States:

I transmit, herewith, for Senate advice and consent to ratification, the Convention between the Government of the United States of America and the Government of the Hungarian People's Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Washington February 12, 1979. For the information of the Senate, I also transmit the report of the Department of State with respect to the Convention.

This Convention is the first income tax convention to be negotiated between the United States and the Hungarian People's Republic. It is intended to facilitate economic relations and the exchange of scholars between the two countries by removing tax obstacles to the flow of investment and the travel of persons.

The Convention follows closely the United States model income tax convention and the 1977 model convention of the Organization for Economic Cooperation and Development (OECD). It clarifies taxing rules, reduces or waives the tax at source on investment income and income from limited business or employment activities, ensures nondiscriminatory taxation and provides for administrative cooperation between the tax authorities of the two countries to avoid double taxation and to prevent fiscal evasion with respect to taxes on income. An accompanying exchange of notes clarifies some technical points and includes some administrative provisions.

I recommend that the Senate give early and favorable consideration to the Convention and give advice and consent to its ratification.

JIMMY CARTER.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

CONSIDERING THAT:

The Convention between the Government of the United States of America and the Government of the Hungarian People's Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income was signed at Washington on February 12, 1979, together with a related exchange of notes, the texts of which are hereto annexed;

The Senate of the United States of America by its resolution of July 9, 1979, two-thirds of the Senators present concurring therein, gave its advice and consent to ratification of the Convention and related exchange of notes;

The Convention and related exchange of notes were ratified by the President of the United States of America on August 7, 1979, in pursuance of the advice and consent of the Senate, and was approved on the part of the Hungarian People's Republic;

The parties notified one another at Budapest on September 18, 1979, that their respective constitutional requirements had been met, and accordingly the Convention, with related exchange of notes, entered into force on September 18, 1979, effective as specified in Article 25;

NOW, THEREFORE, I, Jimmy Carter, President of the United States of America, proclaim and make public the Convention with related exchange of notes, to the end that they be observed and

fulfilled with good faith on and after September 18, 1979, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this twenty-eighth day of November in the year of our Lord one thousand nine hundred seventy-nine and of the Independence of the United States of America the two hundred fourth.

By the President:

(s) Jimmy Carter

CYRUS VANCE

Secretary of State

CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE GOVERNMENT OF THE HUNGARIAN PEOPLE'S REPUBLIC FOR THE
AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

The Government of the United States of America and the Government of the Hungarian People's Republic, desiring to further expand and facilitate mutual economic relations, have resolved to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, and have agreed as follows:

ARTICLE 1
Personal Scope

1. This Convention shall apply to persons who are residents of one or both of the Contracting States, except as otherwise provided in this convention.

2. Notwithstanding any provision of this Convention except paragraph 3 of this Article, a Contracting State may tax its residents (as determined under Article 4 (Fiscal Domicile)) and citizens (including, in the case of the United States, former citizens) as if this Convention had not come into effect.

3. The provisions of paragraph 2 shall not affect:

a) the benefits conferred by a Contracting State under paragraph 2 of Article 15 (Pensions), Articles 20 (Relief from Double Taxation), 21 (Non-discrimination), and 22 (Mutual Agreement Procedure); and

b) the benefits conferred by a Contracting State under Articles 16 (Government Service), 17 (Teachers), 18 (Students and Trainees) and 24 (Effect of Convention on Diplomatic and Consular Officials, Domestic Laws, and Other Treaties), upon individuals who are neither citizens of, nor have immigrant status in, that State.

ARTICLE 2

Taxes Covered

1. This Convention shall apply to taxes on income imposed on behalf of each Contracting State.

2. The existing taxes to which this Convention shall apply are:

a) In the case of the United States, the Federal income taxes imposed by the Internal Revenue Code and the excise taxes imposed on insurance premiums paid to foreign insurers and with respect to private foundations, but excluding the accumulated earnings tax and the personal holding company tax.

b) In the case of the Hungarian People's Republic:

i) The general income tax,

ii) The income tax on intellectual activities,

iii) The profit tax,

iv) The profit tax on economic associations with foreign participation,

v) The enterprises special tax,

vi) The levy on dividends and profit distributions of commercial companies,

vii) The profit tax on state owned enterprises, and

viii) The contribution to communal development, but only to the extent imposed in respect of income taxes covered by this Convention.

3. The Convention shall apply also to any identical or substantially similar taxes which are imposed by a Contracting State 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 changes which have been made in their respective taxation laws and shall notify each other of any official published material concerning the application of this Convention, including explanations, regulations, rulings, or judicial decisions.

4. For the purpose of Article 21 (Non-discrimination), this Convention shall also apply to taxes of every kind and description imposed by a Contracting State or a political subdivision or local authority thereof. For the purpose of Article 23 (Exchange of Information), this Convention shall also apply to taxes of every kind imposed by a Contracting State.

ARTICLE 3

General Definitions

1. In this Convention, unless the context otherwise requires:

- a) The term "person" includes an individual, a partnership, a company or juridical person, an estate, a trust, and any other body of persons;
- b) The term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- c) 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;
- d) The term "nationals" means:
 - i) All individuals possessing the citizenship of a Contracting State, and
 - ii) All legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State;
- e) The term "international traffic" means any transport by a ship or aircraft, except where such transport is solely between places in the other Contracting State;
- f) The term "competent authority" means:
 - i) In the case of the United States, the Secretary of the Treasury or his delegate, and
 - ii) In the case of the Hungarian People's Republic, the Minister of Finance or his delegate;
- g)
 - i) The term "United States" means the United States of America, and
 - ii) When used in a geographical sense, the term "United States" does not include Puerto Rico, the Virgin Islands, Guam, or any other United States possession or territory; and
- h) The term "Hungarian People's Republic", when used in a geographical sense, means the territory of the Hungarian People's Republic.

2. As regards the application of this Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires and subject to the provisions of Article 22 (Mutual Agreement Procedure), have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention.

ARTICLE 4 Fiscal Domicile

1. For 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, citizenship, place of management, place of incorporation, or any other criterion of a similar nature; provided, however, that:

- a) this term does not include any person who is liable to tax in that Contracting State in respect only of income from sources therein or capital situated in that State; and
- b) in the case of income derived or paid by a partnership, estate, or trust, this term applies only to the extent that the income derived by such partnership, estate, or trust is subject

to tax as the income of a resident of the Contracting State, either in its hands or in the hands of its partners or beneficiaries.

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

a) The individual shall be deemed to be a resident of the Contracting State in which the individual has a permanent home available to him. If the individual has a permanent home available to him in both Contracting States or in neither Contracting State, the individual shall be deemed to be a resident of the Contracting State in which the individual's center of vital interests is located;

b) If the Contracting State in which the individual's center of vital interests is located cannot be determined, the individual shall be deemed to be a resident of that Contracting State in which the individual has an habitual abode;

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

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

3. Where by reason of the provisions of paragraph 1 a company is a resident of both Contracting States, then if it is created or organized under the laws of a Contracting State or a political subdivision thereof, it shall be treated as a resident of that State.

4. Where by reason of the provisions of paragraph 1 a person other than an individual or a company is a resident of both Contracting States, the competent authorities of the Contracting States shall by mutual agreement endeavor to settle the question and to determine the mode of application of the Convention to such person.

5. For purposes of this Convention, an individual who is a national of a Contracting State shall also be deemed to be a resident of that State if

a) the individual is an employee of that State or an instrumentality thereof in the other Contracting State or in a third State;

b) the individual is engaged in the performance of governmental functions for the first-mentioned State; and

c) the individual is subjected in the first-mentioned State to the same obligations in respect of taxes on income as are residents of the first mentioned State. The spouse and minor children residing with the employee and subject to the requirements of c) above shall also be deemed to be residents of the first-mentioned State.

ARTICLE 5

Permanent Establishment

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business or production through which the activities of an enterprise are wholly or partially carried on.

2. The term "permanent establishment" shall include especially:

- a) A place of management;
- b) A branch;
- c) An office;
- d) A factory;
- e) A workshop; 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, or an installation or drilling rig or ship used for the exploration or development of natural resources, shall constitute a permanent establishment only if it lasts more than 24 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 for collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of carrying on for the enterprise any other activity if it has a preparatory or auxiliary character; and
- f) the maintenance of a fixed place of business solely for any combination of the activities mentioned in subparagraphs a) to e) of this paragraph.

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 such enterprise, that enterprise shall be deemed to have a permanent establishment 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 at a fixed place of business, would not make this 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 (Real Property)

1. Income derived by a resident of a Contracting State from immovable property (real property) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

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

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

ARTICLE 7

Business Profits

1. The business 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 business profits of the enterprise may be taxed in that 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 business profits which it might be expected to make if it were a distinct and independent enterprise engaged in the same or similar activities under the same or similar conditions.

3. In the determination of the business profits of a permanent establishment, there shall be allowed as deductions those expenses which are incurred for the purposes of the permanent establishment, including a reasonable allocation of executive and general administrative expenses, research and development expenses, interest, and other expenses incurred for the purposes of the enterprise as a whole (or the part thereof which includes the permanent establishment) whether incurred in the State in which the permanent establishment is situated or elsewhere.

4. No business profits shall be attributed to a permanent establishment by reason of:
- a) the mere purchase by that permanent establishment of goods or merchandise for the enterprise, or
 - b) the mere delivery to the permanent establishment of goods or merchandise for its use.

5. Where business 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

Shipping and Air Transport

1. Profits of an enterprise of a Contracting State from the operation in international traffic of ships or aircraft shall be taxable only in that State.

2. For purposes of this Article, profits from the operation of ships or aircraft in international traffic include profits derived from the rental on a full or bareboat basis of ships or aircraft operated in international traffic if such rental profits are incidental to other profits described in paragraph 1.

3. Profits of an enterprise of a Contracting State from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise in international traffic shall be taxable only in that State.

4. The provisions of this Article shall also apply where the enterprise has an agency in the other State for the transportation of goods or persons, but only to the extent of activities directly connected with the business of shipping and aircraft transportation, including auxiliary activities connected therewith.

ARTICLE 9

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 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 if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:

- a) 5 percent of the gross amount of the dividends if the beneficial owner is a company which owns, directly or indirectly, at least 10 percent of the voting stock of the company paying the dividends;
- b) In all other cases, 15 percent of the gross amount of the dividends.

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

3. The term "dividends" as used in this Article means income from shares 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 case, the provisions of Article 7 (Business Profits) or Article 13 (Independent Personal Services), as the case may be, shall apply.

5. Where a company is a resident of a Contracting State, the other Contracting State may not impose any tax on the dividends paid by the company, except insofar as

- a) such dividends are paid to a resident of that other State,
- b) 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, or
- c) such dividends are paid out of profits attributable to a permanent establishment which such company had in that other State, provided that at least 50 percent of such company's gross income from all sources was attributable to a permanent establishment which such company had in that other State.

Where subparagraph c) applies and subparagraphs a) and b) do not apply, any such tax shall be subject to the limitations of paragraph 2.

ARTICLE 10

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 Convention 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 or prizes attaching to bonds or debentures.

3. The provisions of paragraph 1 shall not apply if the person deriving the interest, 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 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 (Business Profits) or Article 13 (Independent Personal Services), as the case may be, shall apply.

ARTICLE 11

Royalties

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

2. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematographic films or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or other like right or property, or for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 shall not apply if the person deriving 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 (Business Profits) or Article 13 (Independent Personal Services), as the case may be, shall apply.

ARTICLE 12

Capital Gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property, as defined in paragraph 2 of Article 6 (Immovable Property), 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 a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State. However, gains derived by an enterprise of a Contracting State from the alienation of ships, aircraft or containers operated by such enterprise in international traffic shall be taxable only in that State.

3. Gains from the alienation of any property other than those mentioned in paragraphs 1 and 2, shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 13

Independent Personal Services

1. Income derived by an individual who is a resident of a Contracting State from the performance of personal services in an independent capacity shall be taxable only in that State unless such services are performed in the other Contracting State and

a) the individual is present in that other State for a period or periods aggregating more than 183 days in the taxable year concerned, or

b) the individual has a fixed base regularly available to him in that other State for the purpose of performing his activities, but only so much of the income as is attributable to that fixed base.

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

ARTICLE 14

Dependent Personal Services

1. Subject to the provisions of Article 15 (Pensions) and 16 (Government Service), salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the taxable 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 as a member of the regular complement of a ship or aircraft operated by an enterprise of a Contracting State in international traffic may be taxed only in that Contracting State.

ARTICLE 15

Pensions

Subject to the provisions of paragraph 2 of Article 16 (Government Services),

1. Pensions and other similar remuneration beneficially derived by a resident of a Contracting State in consideration of past employment shall be taxable only in that State, and

2. Social security payments and other public pensions paid by a Contracting State to an individual who is a resident of the other Contracting State or a citizen of the United States shall be taxable only in the first-mentioned Contracting State.

ARTICLE 16

Government Services

1. a) Remuneration other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof 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 recipient is a resident of that other Contracting State who:

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 political subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof shall be taxable only in that State.

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

3. The provisions of Article 13 (Independent Personal Services), 14 (Dependent Personal Services), and 15 (Pensions), as the case may be, shall apply to remuneration and pensions in respect of services rendered in connection with any business carried on by a Contracting State or a political subdivision or a local authority thereof.

ARTICLE 17

Teachers

1. Where a resident of one of the Contracting States is invited by the Government of the other Contracting State, a political subdivision or a local authority thereof, or by a university or other recognized educational institution in that other Contracting State to come to that other Contracting State for a period not expected to exceed 2 years for the purpose of teaching or engaging in research, or both, at a university or other recognized educational institution, and such resident comes to that other Contracting State primarily for such purpose, his income from personal services for teaching or research at such university or educational institution shall be exempt from tax by that other Contracting State for a period not exceeding 2 years from the date of his arrival in that other Contracting State.

2. This Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

ARTICLE 18

Students and Trainees

1. Payments which a student, apprentice or business trainee who is, or was immediately before visiting a Contracting State, a resident of the other Contracting State and who is present in the first-mentioned Contracting State for the purpose of his full-time education or training receives for the purposes 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.

2. An individual to whom paragraph 1 applies may elect to be treated for tax purposes as a resident of the first-mentioned State. The election shall apply to all periods during the taxable year of the election and subsequent taxable years during which the individual qualifies under paragraph 1, and may not be revoked except with the consent of the competent authority of that State.

ARTICLE 19

All Other Income

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

ARTICLE 20
Relief from Double Taxation

1. In the case of the United States, double taxation shall be avoided as follows: In accordance with the provisions and subject to the limitations of the law of the United States (as it may be amended from time to time without changing the general principle hereof), the United States shall allow to a resident or citizen of the United States as a credit against the United States tax on income the appropriate amount of tax paid to the Hungarian People's Republic; and, in the case of a United States company owning at least 10 percent of the voting stock of a company which is a resident of the Hungarian People's Republic from which it receives dividends in any taxable year, the United States shall allow as a credit against the United States tax on income the appropriate amount of income tax paid to the Hungarian People's Republic by that company with respect to the profits out of which such dividends are paid. Such appropriate amount shall be based upon the amount of income tax paid to the Hungarian People's Republic, but the credit shall not exceed the limitations (for the purpose of limiting the credit to the United States tax on income from sources outside of the United States) provided by United States law for the taxable year. For purposes of applying the United States credit in relation to tax paid to the Hungarian People's Republic, the taxes referred to in paragraphs 2 b) and 3 of Article 2 (Taxes Covered) shall be considered to be income taxes.

2. In the case of the Hungarian People's Republic, double taxation shall be avoided as follows:

a) Where a resident of the Hungarian People's Republic:

i) derives income which, in accordance with the provisions of this Convention other than paragraph 2 of Article 1 (Personal Scope), may be taxed in the United States, or

ii) derives income from sources within the United States which may be taxed only by reason of paragraph 2 of Article 1 (Personal Scope),

the Hungarian People's Republic shall, subject to the provisions of subparagraphs b) and c), exempt such income from tax.

b) Where a resident of the Hungarian People's Republic derives items of income which, in accordance with the provisions of paragraph 2 of Article 9, may be taxed in the United States, the Hungarian People's Republic shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in the United States. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from the United States.

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

ARTICLE 21

Non-discrimination

1. The nationals of a Contracting State, whether or not they are residents of one of the Contracting States, shall not be subjected in the other State to any taxation or any requirement connected therewith, which is more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. For purposes of the preceding sentence, nationals who are subject to tax by a Contracting State on worldwide income are not in the same circumstances as nationals who are not so subject.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This Article 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. 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 the first-mentioned State are or may be subjected.

5. In this Article the term “taxation” means taxes of every kind and description imposed by a Contracting State or a political subdivision or local authority thereof.

ARTICLE 22

Mutual Agreement Procedure

1. Where a resident or national of a Contracting State considers that the actions of one or both of the Contracting States result or will result for it in taxation not in accordance with this Convention, it may, notwithstanding the remedies provided by the national laws of those States, present its case to the competent authority of the Contracting State of which it is a resident or national.

2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State with a view to the avoidance of taxation not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the national laws of the Contracting States.

3. The competent authorities of the Contracting States shall endeavor 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.

5. The competent authorities of the Contracting States may prescribe regulations to carry out the purposes of this Convention.

ARTICLE 23

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out 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 this Convention. The exchange of information is not restricted by Article 1 (Personal Scope). Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of the Convention. Such persons or authorities shall use the information only for such purposes. These persons or authorities may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) to supply particulars which are 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).

3. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall obtain the information to which the request relates in the same manner and to the same extent as if the tax of the first-mentioned State were the tax of that other State and were being imposed by that other State. If specifically requested by the competent authority of a Contracting State, the competent authority of the other Contracting State shall provide information under this Article in the form of depositions of witnesses and copies of unedited original documents (including books, documents, statements, records, accounts, or writings), to the same extent such depositions and documents can be obtained under the laws and administrative practices of such other State with respect to its own taxes.

ARTICLE 24

Effect of Convention on Diplomatic and Consular Officials, Domestic Laws, And Other Treaties

1. Nothing in this Convention shall affect the taxation privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements.

2. This Convention shall not restrict in any manner any exclusion, exemption, deduction, credit, or other allowance now or hereafter accorded -

- a) by the laws of either Contracting State, or
- b) by any other agreement between the Contracting States.

ARTICLE 25

Entry into Force

1. This Convention shall be subject to ratification or approval in accordance with the applicable procedures of the Governments of the Contracting States and it shall enter into force as soon as the parties have notified one another that their respective constitutional requirements have been met.

2. The provisions of this Convention shall have effect:

- a) In respect of tax withheld at the source, to amounts paid or credited on or after the first day of the second month next following the date on which this Convention enters into force,
- b) In respect of other taxes, to taxable periods beginning on or after the first day of January next following the date on which this Convention enters into force.

ARTICLE 26

Termination

This Convention shall remain in force until terminated by the Government of one of the Contracting States. The Government of either Contracting State may terminate the Convention at any time after 5

years from the date on which this Convention enters into force provided that at least 6-months' prior notice of termination has been given through diplomatic channels. In such event, the Convention shall cease to have effect:

1. In respect of tax withheld at the source, to amounts paid or credited on or after the first day of January next following the expiration of the 6-months' period;

2. In respect of other taxes, to taxable periods beginning on or after the first day of January next following the expiration of the 6-months' period.

DONE at Washington in duplicate, both in the English and Hungarian languages, the two texts having equal authenticity, this 12th day of February 1979.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA:

(s) W. Michael Blumenthal,
Secretary of the Treasury.

FOR THE GOVERNMENT OF
THE HUNGARIAN PEOPLE'S REPUBLIC:

(s) Lajos Faluvegi,
Minister of Finance.

NOTES OF EXCHANGE
English Text of the Hungarian Note

FEBRUARY 12, 1979.

His Excellency W. MICHAEL BLUMENTHAL,
Secretary of the Treasury,
United States of America.

EXCELLENCY: In connection with the Income Tax Convention signed today, I should like to state our understanding of the agreement reached by the delegations of the United States of America and of the Hungarian People's Republic concerning the application of certain provisions of the Convention:

1. In connection with Article 9, subparagraph 5 c), it is understood that Hungary will not impose a tax in such cases.

2. Income (other than income from immovable property) will be taxed in accordance with the provisions of Article 7 and Article 13, rather than in accordance with the provisions of Article 19, if the person deriving the income, being a resident of one 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.

3. In the case of dealings between an enterprise of one Contracting State and a related enterprise of the other Contracting State that involve conditions that differ from those that would have been made between independent enterprises, each Contracting State may apply its internal law to distribute, apportion or allocate income, deductions, credits and allowances between the related enterprises, to reflect any profits which would, but for those conditions, have accrued to one of the enterprises. The internal law of each Contracting State may also be applied to restrict the exemption of interest provided in paragraph 1 of Article 10 and of royalties provided in paragraph 1 of Article 11 to the amount of interest and royalties that would have been agreed upon between unrelated parties in cases where interest and royalties are paid by an enterprise of one Contracting State to a related enterprise in the other Contracting State.

4. It is agreed that each of the Contracting States shall endeavor to collect on behalf of the other Contracting State such amounts as may be necessary to ensure that relief granted by the present Convention from taxation imposed by such other Contracting State does not enure to the benefit of persons not entitled thereto. This agreement shall not impose upon either of the Contracting States the obligation to carry out administrative measures which are of a different nature from those used in the collection of its own tax, or which would be contrary to its sovereignty, security, or public policy.

I have the honor to propose to you that the present note and Your Excellency's reply thereto constitute the agreement of our two Governments on these points.

Accept, Excellency, the assurances of my highest consideration.

Sincerely yours,

(s) Lajos Faluvegi,
Minister of Finance,
Hungarian People's Republic.

FEBRUARY 12, 1979.

His Excellency LAJOS FALUVEGI,
Minister of Finance,
Hungarian People's Republic.

EXCELLENCY: I have the honor to refer to your letter of today's date concerning the Income Tax Convention signed today reading as follows:

“In connection with the Income Tax Convention signed today, I should like to state our understanding of the agreement reached by the delegations of the United States of America and of the Hungarian People's Republic concerning the application of certain provisions of the Convention:

1. In connection with Article 9, subparagraph 5 c), it is understood that Hungary will not impose a tax in such cases.

2. Income (other than income from immovable property) will be taxed in accordance with the provisions of Article 7 and Article 13, rather than in accordance with the provisions of Article 19, if the person deriving the income, being a resident of one 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.

3. In the case of dealings between an enterprise of one Contracting State and a related enterprise of the other Contracting State that involve conditions that differ from those that would have been made between independent enterprises, each Contracting State may apply its internal law to distribute, apportion or allocate income, deductions, credits and allowances between the related enterprises, to reflect any profits which would, but for those conditions, have accrued to one of the enterprises. The internal law of each Contracting State may also be applied to restrict the exemption of interest provided in paragraph 1 of Article 10 and of royalties provided in paragraph 1 of Article 11 to the amount of interest and royalties that would have been agreed upon between unrelated parties in cases where interest and royalties are paid by an enterprise of one Contracting State to a related enterprise in the other Contracting State.

4. It is agreed that each of the Contracting States shall endeavor to collect on behalf of the other Contracting State such amounts as may be necessary to ensure that relief granted by the present Convention from taxation imposed by such other Contracting State does not enure to the benefit of persons not entitled thereto. This agreement shall not impose upon either of the Contracting States the obligation to carry out administrative measures which are of a different nature from those used in the collection of its own tax, or which would be contrary to its sovereignty, security or public policy.”

I wish to inform you that I agree with the contents of your letter.

Accept, Excellency, the assurance of my highest consideration.

Sincerely yours,

(s) W. Michael Blumenthal.