

Double Taxation Agreement between India and Hungary

Signed on March 3, 1987

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Hungary

Double Taxation Avoidance Agreement

Convention between the Government of the Republic of India and the Government of the Hungarian People's Republic for the avoidance of double taxation with respect to taxes on Income

NOTIFICATION No. G.S.R.282(E), dtd.13.03.1987.

Whereas the annexed Convention between the Government of the Republic of India and the Government of the Hungarian People's Republic for the avoidance of double taxation with respect to taxes on income has come into force on the 7th January, 1987 on the Notification by both the Contracting States to each other of the completion of the procedures required by their laws for its bringing into force, in pursuance of Article 28 of the said Convention;

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961) and section 24A of the Companies (Profits) Surtax Act, 1964 (7 of 1964), the Central Government hereby directs that all the provisions of the said Convention shall be given effect to in the Union of India.

ANNEXURE

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

The Government of the Republic of India 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 with respect to taxes on income and Have Agreed as Follows:

Article I

PERSONAL SCOPE

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

Article 2

TAXES COVERED

1. This Convention shall apply to taxes on income imposed on behalf of each Contracting State or of its political sub-divisions or local authorities, irrespective of the manner in which they are levied.
2. The taxes to which this Convention shall apply are:
 - a. In the case of India:**
 1. income-tax including any surcharge thereon;
 2. surtax; (hereinafter referred to as "Indian tax").
 - b. In the case of the Hungarian People's Republic:**
 1. general income-tax (az a'ltalanos j'o've-dele mado');
 2. income-tax on household and auxiliary farms (a h'azta'ji e's Kisegi'td gazdasa'gok jo'vedele mao 'ja);
 3. corporation' taxes (a ta'rsulati aoo'es a tarsa'ji aoo);
 4. special corporation tax (a ta'rsulati Kolonacc);
 5. profit tax of state enterprises (az allami vella latok nyereso' gaddja);
 6. town and community contribution (varosi e's ko'zsegi hozzaja'rula's);
 7. levy on dividends and profit distributions of commercial companies (a koreskedelmi ta'rsasa'gok os nyerse'g kifizete'seiuta'ni illete'k);

(hereinafter referred to as "Hungarian tax").

3. The Convention shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of the present Convention in addition to, or in place of, the taxes referred to in paragraph 2 of this Article.
4. At the end of each year, the competent authorities of the Contracting States shall notify to each other any significant changes which have been made in their respective taxation laws which are the subject of this Convention and furnish copies of relevant enactment and regulations.

Article 3

GENERAL DEFINITIONS

1. In this Convention, unless the context otherwise requires:
 - a. the terms "India" means the territory of India and includes the territorial sea and airspace above it, as well as any other maritime zone in which India has sovereign rights, other rights and jurisdictions, according to the Indian law and in accordance with international law;
 - b. the term "Hungarian People's Republic" means the territory of the Hungarian People's Republic;
 - c. the terms "a Contracting State" and "the other Contracting State" mean India or the Hungarian People's Republic; as the context requires;
 - d. the term "person" comprises an individual, a company and any other body of persons;
 - e. the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - f. the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean, respectively, an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
 - g. the term "national" of a Contracting State means:
 - i. any individual possessing the nationality of a Contracting State;
 - ii. any legal person, partnership or association deriving its status as such from the law in force in a Contracting State;
 - h. the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between the places in the other Contracting State:
 - i. the term "competent authority" means in the case of India, the Central Government in the Ministry of Finance (Department of Revenue); and in the case of the Hungarian People's Republic, the Ministry of Finance.
2. In the application of the provisions of this Convention by one of the Contracting State, any term not defined herein shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that State relating to the taxes which are the subject of this Convention.

Article 4

FISCAL DOMICILE

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 or any other criterion of a similar nature.
2. Where by reason of the provisions of paragraph 1 of this Article an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:
 - a. he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State in which the centre of his vital interests is located;

- b. if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
 - c. if he has an habitual abode in both Contracting States or in neither of them he shall be deemed to be a resident of the Contracting State of which he is a national;
 - d. if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting State shall settle the question by mutual agreement in accordance with Article 25.
3. Where by reason of the provisions of paragraph 1, a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business or production through which the activities of an enterprise are wholly or partly carried on.
2. The term "permanent establishment" shall include especially:
 - a. a place of management;
 - b. a branch;
 - c. an office;
 - d. a factory;
 - e. a workshop or a warehouse;
 - f. a mine, a quarry, an oil field or other place of extraction of natural resources;
 - g. a building site or construction, installation or assembly project or supervisory activities in connection therewith, where such site, project or supervisory activity continues for a period of more than six months, or where such project or supervisory activity, being incidental to the sale of machinery or equipment, continues for a period not exceeding six months and the charges payable for the project or supervisory activity exceed 10 per cent of the sale price of the machinery and equipment.
3. 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 or display 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 or display;
 - c. the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - d. the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
 - e. the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
 - f. the maintenance of a fixed place of business solely for any combination of activities mentioned in sub paragraphs (a) to (e), provided that overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
4. Notwithstanding the provisions of paragraphs 1 and 2, where a person---other than an agent of an independent status to whom paragraph 5 applies---is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:
 - a. has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 3 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; or

- b. has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.
5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.
6. The fact that a company, which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other Contracting State (whether through a permanent establishment or otherwise), shall not, of itself, constitute for either company a permanent establishment of the other.

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.
2. The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property 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, all India, quarries and other places of extraction of 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 professional 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 that permanent establishment; or (c) other business activities carried on in that other State of the same or similar kind as those effected through that permanent establishment.
2. 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 so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.

4. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expense which are incurred for the purposes of the business 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 as are in accordance with the provisions of and subject to the limitations of the taxation laws of that State. 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, know-how or other rights, or by way of commission or other charges, 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, know-how or other rights, or by way of commission or other charges 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.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the purpose of export to the enterprise of which it is the permanent establishment.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items which are dealt with separately in other Article of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

AIR TRANSPORT

1. Income derived from the operation of aircraft in international traffic by an enterprise of one of the Contracting States shall not be taxed in the other Contracting State.
2. Paragraph 1 shall likewise apply in respect of participations in pools of any kind by enterprises engaged in air transport.
3. The provisions of paragraphs 1 and 2 shall also apply where the enterprise has an office or agency in the other State for the transportation of goods or persons. However, this shall only apply to activities directly connected with the business of aircraft transportation.
4. Interest on funds connected with the operation of aircraft in international traffic as mentioned in paragraph 1 shall be regarded as income from the operation of such aircraft.

Article 9

ASSOCIATED ENTERPRISES

1. Where
 - a. an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
 - b. the same Persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other contracting State.

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

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

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that State, but if the recipient is the beneficial owner of the dividends and the dividends relate to a new contribution, the tax so charged shall not exceed fifteen per cent of the gross amount of the dividends if the beneficial owner is a company which owns at least ten per cent of the shares of the company paying 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 a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except in so far as such dividends are paid to a resident of that other State or in so far 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 profit consist wholly or partly of profits or income arising in such, other State.
6. As used in paragraph 2 of this Article, the term "new contribution" means any share capital, other than bonus shares or shares of a new company formed as a result of the amalgamation of two or more existing companies, issued after the date of entry into force of this Convention by a company which is a resident of a Contracting State, and beneficially owned by a resident of 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 and

the interest is paid in respect of a loan or debt first created after the date of entry into force of this Convention, the tax so charged shall, not exceed 15 per cent of the gross amount of interest.

3. Notwithstanding the provisions of paragraph 2:-
 - a. interest arising in a Contracting State shall be exempt from tax in that State provided it is derived and beneficially owned by:
 - i. the Government, a political sub-division or a local authority of the other Contracting State;
 - ii. the Central Bank of the other Contracting State;
 - b. interest arising in a Contracting State shall be exempt from tax in, that State if it is beneficially owned by a resident of the other Contracting State and is derived in connection with a loan or credit extended or endorsed by:
 - i. in the case of Hungarian People's Republic, the Magyar Kulkereskedelmi Bank Rt., to the extent such interest is attributable to financing of exports and imports only;
 - ii. in the case of India, the Export-Import Bank of India (Exim Bank)., to the extent such interest is attributable to financing of exports and imports only;
 - iii. any institution of a Contracting State in charge of public financing of external trade;
 - iv. any other person provided that the loan or credit is approved by the Government of the first mentioned Contracting State.
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 purpose 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 or Article 14, 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 sub-division, 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 a fixed base, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment or the fixed base is situated.
7. Where, owing to a special relationship between the payer and the beneficial owner or between both of them and some other person the amount of the interest paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12

ROYALTIES AND FEES FOR TECHNICAL SERVICES

1. Royalties and fees for technical services 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 and fees for technical services may also be taxed in the Contracting State in which they arise and according to the law of that State; provided that where the royalties or fees for technical services are paid to a resident of the other Contracting State who is the beneficial owner thereof and they are paid in respect of a right or property which is first granted, or under a contract which is signed, after the date of entering into force of this Convention, the tax so charged shall not exceed,----

- a. in the case of royalties, 40 per cent of the gross amount thereof;
 - b. in the case of fees for technical services, 20 per cent of the gross amount thereof.
3. The term "royalties" as used in this Article means payments of any kind including rentals received as a consideration
 - a. for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, and films or tapes for television or radio broadcasting
 - b. for the use of, or the right to use, any patent, trade mark, design or model, plan, secret formula or process, or any industrial commercial or scientific equipment;
 - c. for information concerning industrial, commercial or scientific experience.
4. The term "fees for technical services" as used in this Article means payments of any kind to any person, other than payments to an employee of the person making the payments and to any individual for independent personal services mentioned in Article 14 (Independent Personal Services), in consideration for services of a managerial, technical or consultancy nature, including the provision of services of technical or other personnel.
5. The provisions of paragraphs 1 and 2 of this Article shall not apply if the beneficial owner of the royalties or fees for technical services, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties or fees for technical services 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, property or contract in respect of which the royalties or fees for technical services are 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. Royalties and fees for technical services shall be deemed to arise in a contracting State where the payer is that State itself, a political sub-division, a local authority or a resident of that State. Where, however, the person paying the royalties or fees for technical services, 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 obligation to make the payments was incurred and the payments are borne by that permanent establishment or fixed base, then the royalties or fees for technical services shall be deemed to arise in the Contracting State in which the permanent establishment or the fixed base is situated.
7. Where, owing to a special relationship between the payer and beneficial owner or between both of them and some other person, the amount of the royalties or fees for technical services paid exceeds for whatever reason the amount which would have been paid in the absence of such relationship, the provisions of this Article shall apply only to the last mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13

CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.
3. Gains arising from a capital asset being ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft by an enterprise of a Contracting State shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. Gains from the alienation of shares of the capital stock of a company the property of which consists directly or indirectly principally of immovable property situated in a Contracting State may be taxed in that State.
5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4 shall be taxable only in the Contracting State of which he alienator is a resident.

Article 14

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, in which case such income may be taxed in the other Contracting State, if
 - a. the individual is present in that other State for a period or periods aggregating more than 90 days in the 'previous year' or 'taxable year', as the case may be, 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 "independent personal services" includes independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, surgeons, lawyers, engineers, architects, dentists and accountants.

Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 17, 18, 19, 20 and 21, 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 Contracting 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 relevant 'previous year' or 'taxable year' as the case may be, and
 - b. the remuneration is paid by, or on behalf of an employer who is not a resident of the other State, and
 - c. the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State
3. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16

DIRECTORS' FEES

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

Article 17

ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 14 and 15, income derived by public entertainers (such as stage, motion picture, radio or television artistes and musicians) or athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.
2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income, may, notwithstanding the provisions of Articles 7, 14. and 15. be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.
3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, income derived from such activities shall be exempt from tax in the Contracting State in which these activities are exercised if the visit of the public entertainers or athletes to that State is directly or indirectly supported, wholly or substantially, from the public funds of the Government of the other Contracting State.
4. For the purpose of this Article, the term "Government" includes a State Government, a political sub-division or a local authority of either Contracting State

Article 18

PENSIONS

1. Subject to the provisions of paragraph 3 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.
2. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under a public scheme which is part of the social security system of a Contracting State or a political sub-division or a local authority thereof shall be taxable only in that State.

Article 19

GOVERNMENT SERVICE

1. Remuneration (not being a pension) paid by the Government of the Republic of India to any individual who is a citizen of India in respect of services rendered in the discharge of Governmental functions in the Hungarian People's Republic shall be exempt from Hungarian tax.
2. Remuneration (not being a pension) paid by the Government of the Hungarian People's Republic to any individual who is a citizen of the Hungarian People's Republic in respect of services rendered in the discharge of governmental functions in India shall be exempt from Indian tax.
3. Any pension paid by the Government of one of the Contracting States to any individual shall be taxable in that Contracting State.
4. The provisions of paragraphs 1, 2 and 3 of this Article shall not apply to payments in respect of services rendered in connection with any business carried on by the Government of either of the Contracting States for the purposes of profit.
5. For the purposes of this Article, the term "Government" shall include any State Government, a political sub-division or local authority of either Contracting State and in particular the Reserve Bank of India and the National Bank of Hungary.

Article 20

STUDENTS

1. An individual who is or was immediately before visiting the other Contracting State a resident of a Contracting State and who visits the other Contracting State solely as a student at an approval university, college, school or other similar approved institution in that other Contracting State or as a business or technical apprentice therein, for a period not exceeding five years from the date of his first arrival in that other Contracting State in connection with that visit shall be exempt from tax in that other Contracting State on
 - a. all remittances from abroad for the purposes of his maintenance education or training; and

- b. any remuneration not exceeding Rs.20,000 or 75,000 forints, during any 'previous year' or 'taxable year' as the case may be, for personal services rendered in that other Contracting State with a view to supplementing the resources available to him for such purposes.
2. An individual who is or was immediately before visiting the other Contracting State a resident of a Contracting State and who visits the other Contracting State for the purposes of study, research or training solely as a recipient of a grant, allowance or award from the Government of either of the Contracting States or from a scientific, educational or charitable organisation or under a technical assistance programme entered into by the Government of either of the Contracting States for a period not exceeding five years from the date of his first arrival in that other Contracting State in connection with that visit shall be exempt from tax in that other Contracting State on
 - a. the amount of such grant, allowances or award;
 - b. all remittances from abroad for the purposes of his maintenance, education or training; and
 - c. any remuneration not exceeding Rs25,000 or 90,000 forints during any 'previous year' or 'taxable year' as the case may be, in respect of services in that other Contracting State if the services are performed in connection with his study research training or are incidental thereto.
3. For the purposes of paragraph 1, "approved university college, school or institution" means a university college school and an educational or research institution which has been approved in this regard by the competent authority of the concerned Contracting State.

Article 21

PROFESSORS, TEACHERS AND RESEARCHERS

1. An individual who is a resident of one of the Contracting States and who, at the invitation of the Government of the other Contracting State or of a university or other approved institution situated in that other Contracting State, visits that other Contracting State for the primary purpose of teaching or engaging in research or both at a university or other approved institution shall be exempt from tax in that other Contracting State on his income from personal services for teaching or research at the university or the approved institution for a period not exceeding 24 months from the date of his arrival in the latter Contracting State.
2. This Article shall not apply to income from research if such research is undertaken primarily for the private benefit of a specific person or persons.
3. For the purposes of paragraph 1, "approved institution" means an educational or research institution which has been approved in this regard by the competent authority of the concerned Contracting State.

Article 22

OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply 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.
3. Notwithstanding the provisions of paragraphs 1, and 2, items, of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention and arising in the other Contracting State may also be taxed in that other State.

Article 23

ELIMINATION OF DOUBLE TAXATION

1. The laws in force either of the Contracting States will continue to govern the assessment and taxation of income in the respective Contracting States except where express provisions to the contrary is made in this Convention.
2. The income arising within the Hungarian People's Republic which in accordance with this Convention may be subjected to tax in the Hungarian People's Republic either directly or by deduction, subject to the provisions of sub-paragraphs 4 and 5, shall not be subject to Indian tax.
3. The income arising within India which in accordance with this Convention may be subjected to tax in India either directly or by deduction, subject to the provisions of sub-paragraphs 4 and 5, shall not be subject to Hungarian tax.
4. Where a resident of a Contracting State derives items of income which in accordance with the provisions of Articles 10, 11 and 12 may be taxed in the other Contracting State, the first mentioned State shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in that other State. 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 that other State.
5. Notwithstanding the provisions of paragraphs 2 and 3 of this Article, the items of income which under the laws of a Contracting State should be taken into account for calculating the rate of tax to be imposed in that Contracting State, shall continue to be so taken into account.

Article 24

NON-DISCRIMINATION

1. The nationals of a Contracting State shall not be subjected in the other Contracting state to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances and under the same conditions are or may be subjected.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities in the same circumstances or under the same conditions. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
3. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected in the same circumstances and under the same conditions.
4. In this Article, the term "taxation" means taxes which are, the subject of this Convention.

Article 25

MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident. The claim must be lodged within three years from the date of the assessment or of the withholding of tax at the source whichever is the later.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation

not in accordance with the convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve, by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.
4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

Article 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information (being information and documents which are at their disposal under the respective taxation laws and obtained in the normal course of administration) as is necessary for carrying out the provisions of this Convention or for the prevention of fraud or prevention or detection of evasion or evidence of the taxes or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Convention. Any information or documents so exchanged, shall be treated as secret but may be disposed to persons, (including a court or administrative body) concerned with assessment, collection, enforcement, investigation or prosecution in respect of taxes which are the subject of this Convention or any fraud connected therewith, or to persons with respect to whom the information or documents relates.
2. The exchange of information or documents shall be either on a routine basis or on request with reference to particular cases or both. The competent authorities of the Contracting States shall agree from time to time on the list of the information or documents which shall be furnished on a routine basis.
3. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:
 - a. to carry out administrative measures at variance with the laws or administrative practice of that or of the other Contracting State;
 - b. to supply information or documents 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 or documents 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.

Article 27

MEMBERS OF DIPLOMATIC OR CONSULAR MISSIONS

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

Article 28

ENTRY INTO FORCE

Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Convention. This Convention shall enter into force on the date of the later of these notifications and shall thereupon have effect:

- a. In India:

In respect of income arising in any previous year beginning on or after the first day of April next following the calendar year in which the later of the notifications is given;

b. In the Hungarian People's Republic:

In respect of income arising in any taxable year beginning on or after the first day of January next following the calendar year in which the later of the notifications is given.

Article 29

TERMINATION

This Convention shall remain in force indefinitely but either of the Contracting States may, on or before the thirtieth day of June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give the other Contracting State through diplomatic channels, written notice of termination and in such event, this Convention shall cease to have effect:-

a. In India:

In respect of income arising in any previous year beginning on or after the 1st day of April next following the calendar year in which the notice is given;

b. In the Hungarian People's Republic:

In respect of income arising in any taxable year beginning on or after the 1st day of January next following the calendar year in which the notice of termination is given.

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

Done in duplicate at New Delhi this Thirtieth day of October one thousand Nine hundred and eighty six in the English language.

Sd/- Sd/-

(Vishwanath Pratap Singh) (Dr. Istvan Hetenyi)

Finance Minister Finance Minister For the

For the Government of the Republic of India. Government of the Hungarian People's Republic.

PROTOCOL

The Government of the Republic of India and the Government of the Hungarian People's Republic.

Having entered into a Convention for the Avoidance of Double Taxation with respect to Taxes on Income.

Have agreed, at the time of signing the said Convention, on the following provisions which shall constitute an integral part there of:

Concerning Article 5, the term permanent establishment shall be deemed not to include the use of facilities or the maintenance of a stock of goods or of merchandise solely for the purpose of storage, display or delivery of spare parts or components required by way of replacement under any warranty provisions of a contract under which any machinery or equipment is supplied by an enterprise of a Contracting State to an enterprise of the other Contracting State.

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

Done in duplicate at New Delhi this Thirtieth day of October 1986 in English Language.

Sd/- Sd/-

(Vishwanath Pratap Singh) (Dr. Istvan Hetenyi)

Finance Minister Finance Minister For the

For the Government of the Republic of India. Government of the Hungarian People's Republic.

(No. 7181/F. No. 501/14/73-FTD) V. D. ERADI, Jt. Secy.