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TAX CONVENTION WITH HUNGARY

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF HUNGARY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, SIGNED ON FEBRUARY 4, 2010, AT BUDAPEST (THE "PROPOSED CONVENTION") AND A RELATED AGREEMENT EFFECTED BY AN EXCHANGE OF NOTES ON FEBRUARY 4, 2010

NOVEMBER 15, 2010.—Treaty was read the first time, and together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

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LETTER OF TRANSMITTAL

THE WHITE HOUSE,
November 15, 2010.

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to its ratification, the Convention between the Government of the United States of America and the Government of the Republic of Hungary for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed on February 4, 2010, at Budapest (the "proposed Convention") and a related agreement effected by an exchange of notes on February 4, 2010. I also transmit for the information of the Senate the report of the Department of State, which includes an Overview of the proposed Convention and related agreement.

The proposed Convention and related agreement were negotiated to bring U.S.-Hungary tax treaty relations into closer conformity with current U.S. tax treaty policies. For example, the proposed Convention contains comprehensive provisions designed to address "treaty shopping," which is the inappropriate use of a tax treaty by residents of a third country. The existing Convention with Hungary, signed in 1979, does not contain treaty shopping protections and, as a result, has been abused by third-country investors in recent years. For this reason, concluding the proposed Convention has been a top priority for the Department of the Treasury's tax treaty program.

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

BARACK OBAMA.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, September 17, 2010.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you, with a view to their transmission to the Senate for advice and consent to ratification, the Convention between the Government of the United States of America and the Government of the Republic of Hungary for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed on February 4, 2010, at Budapest together with a related agreement effected by exchange of notes on February 4, 2010. The proposed Convention and related agreement were negotiated to bring U.S.-Hungary tax treaty relations into closer conformity with current U.S. tax treaty policies. For example, the proposed Convention contains comprehensive provisions designed to address "treaty shopping," which is the inappropriate use of a tax treaty by residents of a third country. The existing Convention with Hungary signed in 1979 (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) does not contain treaty shopping protections and, as a result, has been abused by third-country investors in recent years. For this reason, concluding the proposed new Convention has been a top priority for the Department of the Treasury's tax treaty program. An overview of key provisions of the proposed Convention and related agreement are enclosed with this report.

The proposed Convention is self-executing. I recommend that the proposed Convention and related agreement be transmitted to the Senate for its advice and consent to ratification. The Department of the Treasury and the Department of State cooperated in the negotiation of the proposed Convention and related agreement, and the Department of the Treasury joins the Department of State in recommending that the proposed Convention and related agreement be transmitted to the Senate as soon as possible for its advice and consent to ratification.

Respectfully submitted,

HILLARY RODHAM CLINTON.

Enclosures: As stated.

OVERVIEW

The proposed income tax Convention with Hungary signed on February 4, 2010 and the related agreement effected by exchange of notes on the same day were negotiated to bring U.S.-Hungary tax treaty relations into closer conformity with current U.S. tax treaty policy. There are, as with all bilateral tax treaties, some variations from these norms. In the proposed Convention and related agreement, these differences reflect particular aspects of Hungarian law and treaty policy, the interaction of U.S. and Hungarian law, and U.S.-Hungarian economic relations.

Anti-abuse provisions

The proposed Convention and the related agreement contain comprehensive "Limitation on Benefits" provisions designed to address "treaty shopping," which is the inappropriate use of a tax treaty by residents of a third country. The existing Convention (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), does not contain treaty shopping protections, and, as a result, has been abused by third-country investors in recent years. For this reason, replacing the existing Convention with a Convention containing comprehensive "Limitation on Benefits" provisions has been a top tax treaty priority for the Treasury Department. The new "Limitation on Benefits" provisions include a provision granting so-called "derivative benefits" similar to the provision included in all recent U.S. tax treaties with countries that are members of the European Union. The new "Limitation on Benefits" provisions also contain a special rule of so-called "headquarters companies" that is identical to what the Treasury Department has agreed to with a number of other tax treaty partners.

The proposed Convention incorporates updated rules that provide that a former citizen or long-term resident of the United States may, for the period of ten years following the loss of such status, be taxed in accordance with the laws of the United States. The proposed convention also coordinates the U.S. and Hungarian tax rules to address the "mark-to-market" provision enacted by the United States in 2007 that apply to individuals who relinquish U.S. citizenship to terminate long-term residency.

Taxation of investment income

The withholding rates on investment income in the proposed Convention are the same as or lower than those in the existing Convention. The proposed Convention provides for reduced source-country taxation of dividends distributed by a company resident in one Contracting State to a resident of the other Contracting State. The proposed Convention generally allows for taxation at source of five percent on direct dividends (i.e., where a 10-percent ownership threshold is met) and 15 percent on all other dividends. Additionally, the proposed Convention provides for an exemption from withholding tax on certain cross-border dividend payments to pension funds.

The proposed Convention updates the treatment of dividends paid by U.S. Regulated Investment Companies (RICs) and Real Estate Investment Trusts (REITs) to prevent the use of structures designed to inappropriately avoid U.S. tax.

Consistent with the existing Convention, the proposed Convention generally eliminates source-country withholding taxes on cross-border interest and royalty payments. However, consistent with existing U.S. tax treaty policy, source-country tax may be imposed on certain contingent interest and payments from a U.S. real estate mortgage investment conduit.

The taxation of capital gains under the proposed Convention generally follows the format of the current U.S. Model Income Tax Convention. Gains derived from the sale of real property and from real property interests may be taxed by the State in which the property is located. Likewise, gains from the sale of personal property forming part of a permanent establishment situated in a Contracting State may be taxed in that State. All other gains, including gains from the alienation of ships, boats, aircraft and containers used in international traffic and gains from the sale of stock in a corporation, are taxable only in the State of residence of the seller.

Taxation of business income

The proposed Convention and related agreement, like several recent treaties, provide that the OECD Transfer Pricing Guidelines apply by analogy in determining the amount of business profits of a resident of the other country. The source country's right to tax such profits is generally limited to cases in which the profits are attributable to a permanent establishment located in that country. The proposed Convention generally defines a "permanent establishment" in a way that grants rights to tax business profits that are consistent with those found in the current U.S. Model income tax treaty.

The proposed Convention preserves the U.S. right to impose its branch profits tax on U.S. branches of Hungarian corporations. The proposed Convention also accommodates a provision of U.S. domestic law that attributes to a permanent establishment income that is earned during the life of the permanent establishment, but is deferred, and not received until after the permanent establishment no longer exists.

Taxation of personal services income

The proposed Convention would change the rules currently applied pursuant to the existing Convention regarding the taxation of independent personal services. Under the proposed Convention, an enterprise performing services in the other country will become taxable in the other country only if the enterprise has a fixed place of business.

The rules for the taxation of income from employment under the proposed Convention are generally similar to those under the current U.S. Model Income Tax Convention. The general rule is that employment income may be taxed in the State where the employment is exercised unless three conditions constituting a safe harbor are satisfied.

Pensions

The proposed Convention preserves the existing Convention's rules that allow for exclusive residence-country taxation of pensions, and consistent with current U.S. tax treaty policy, provides for exclusive source-country taxation of social security payments.

Exchange of information

The proposed Convention provides for the full exchange of information between the competent authorities to facilitate the administration of each country's tax laws. It generally follows the current U.S. Model Income Tax Convention and the Organization for Economic Cooperation and Development standards for exchange of tax information. Accordingly, the proposed Convention allows the United States to obtain information (including from financial institutions) from Hungary whether or not Hungary needs the information for its own tax purposes.

Entry into force

The proposed Convention would enter into force on the date of an exchange of instruments of ratification. It would have effect, with respect to taxes withheld at source, for amounts paid or credited on or after the first day of the second month next following the date of entry into force of the proposed Convention, and with respect to other taxes, for taxable years beginning on or after the first day of January next following the date of entry into force of the proposed Convention. The related agreement effected by exchange of notes would enter into force on the date of entry into force of the proposed Convention.

Effect on the existing convention

The existing Convention would, with respect to any tax, cease to have effect as of the date on which this proposed Convention has effect with respect to such tax. However, where any person would be entitled to greater benefits under the existing Convention, the existing Convention, at the election of the person, would continue to have effect in its entirety with respect to such person until either the date of entry into force of the proposed Convention or December 31, 2010, whichever is later. Additionally, individuals who benefit from the Articles on Students and Trainees and on Teachers under the existing Convention would continue to be entitled to such benefits as if the existing Convention remained in force.

CONVENTION

BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE GOVERNMENT OF THE REPUBLIC OF HUNGARY

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 Republic of Hungary, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

Article 1
GENERAL SCOPE

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

2. This Convention shall not restrict in any manner any benefit now or hereafter accorded:

a) by the laws of either Contracting State; or

b) by any other agreement to which both of the Contracting States are parties.

3. a) Notwithstanding the provisions of subparagraph b) of paragraph 2 of this Article:

i) for purposes of paragraph 3 of Article XXII (Consultation) of the General Agreement on Trade in Services, the Contracting States agree that any question arising as to the interpretation or application of this Convention and, in particular, whether a taxation measure is within the scope of this Convention, shall be determined exclusively in accordance with the provisions of Article 25 (Mutual Agreement Procedure) of this Convention; and

ii) the provisions of Article XVII of the General Agreement on Trade in Services shall not apply to a taxation measure unless the competent authorities agree that the measure is not within the scope of Article 24 (Non-Discrimination) of this Convention.

b) For the purposes of this paragraph, a "measure" is a law, regulation, rule, procedure, decision, administrative action, or any similar provision or action.

4. Except to the extent provided in paragraph 5, this Convention shall not affect the taxation by a Contracting State of its residents (as determined under Article 4 (Resident)) and its citizens. Further, except to the extent provided in paragraph 5 and notwithstanding the other provisions of this Convention, a former citizen or former long-term resident of a Contracting State may, for the period of ten years following the loss of such status, be taxed in accordance with the laws of that Contracting State.

5. The provisions of paragraph 4 shall not affect:

a) the benefits conferred by a Contracting State under paragraph 2 of Article 9 (Associated Enterprises), paragraphs 1 b), 2, and 3 of Article 17 (Pensions and Income from Social Security) and Articles 23 (Relief From Double Taxation), 24 (Non-Discrimination), and 25 (Mutual Agreement Procedure); and

b) the benefits conferred by a Contracting State under Articles 18 (Government Service), 19 (Students and Trainees), 20 (Professors and Teachers), and 27 (Members of Diplomatic Missions and Consular Posts), upon individuals who are neither citizens of, nor have been admitted for permanent residence in, that State.

6. An item of income, profit or gain derived through an entity that is fiscally transparent under the laws of either Contracting State shall be considered to be derived by a resident of a State to the extent that the item is treated for purposes of the taxation law of such Contracting State as the income, profit or gain of a resident.

Article 2
TAXES COVERED

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property (real property), and taxes on the total amounts of wages or salaries paid by enterprises, but excluding social security and unemployment taxes.

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

a) in the case of Hungary:

i) the personal income tax;
ii) the corporate tax;

iii) the surtax;

b) in the case of the United States: the Federal income taxes imposed by the Internal Revenue Code (but excluding social security and unemployment taxes), and the Federal excise taxes imposed with respect to private foundations.

4. This Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their taxation laws.

Article 3
GENERAL DEFINITIONS

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

a) the term "person" includes an individual, an estate, a trust, a partnership, a company, and any other body of persons;

b) the term "company" means any body corporate or any entity that 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; the terms also include an enterprise carried on by a resident of a Contracting State through an entity that is treated as fiscally transparent in that Contracting State;

d) the term "enterprise" applies to the carrying on of any business;

e) the term "business" includes the performance of professional services and of other activities of an independent character;

f) the term "international traffic" means any transport by a ship or aircraft, except when such transport is solely between places in a Contracting State;

g) the term "competent authority" means:

i) in Hungary: the Minister of Finance or his authorized representative; and

ii) in the United States: the Secretary of the Treasury or his delegate;

h) the term "Hungary" means the Republic of Hungary and, when used in a geographical sense, it means the territory of the Republic of Hungary;

i) the term "United States" means the United States of America, and includes the states thereof and the District of Columbia; such term also includes the territorial sea thereof and the sea bed and subsoil of the submarine areas adjacent to that territorial sea, over which the United States exercises sovereign rights in accordance with international law; the term, however, does not include Puerto Rico, the Virgin Islands, Guam or any other United States possession or territory;

j) the term "national" of a Contracting State means:

i) any individual possessing the nationality of that State; and

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

k) the term "pension fund" means any person established in a Contracting State that is:

i) generally exempt from income taxation in that State; and

ii) operated principally either:

A) to administer or provide pension or retirement benefits; or

B) to earn income for the benefit of one or more persons described in clause A); and

l) the terms "a Contracting State" and "the other Contracting State" mean the United States or Hungary, as the context requires.

2. As regards the application of the Convention at any time by a Contracting State any term not defined therein shall, unless the context otherwise requires, or the competent authorities agree to a common meaning pursuant to the provisions of Article 25 (Mutual Agreement Procedure), have the meaning which it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4
RESIDENT

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

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

2. The term "resident of a Contracting State" includes:

a) a pension fund established in that State; and

b) an organization that is established and maintained in that State exclusively for religious, charitable, scientific, artistic, cultural, or educational purposes,

notwithstanding that all or part of its income or gains may be exempt from tax under the domestic law of that State.

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

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

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

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

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

4. Where by reason of the provisions of paragraphs 1 and 2 of this Article a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavor to determine by mutual agreement the mode of application of this Convention to that person. If the competent authorities do not reach such an agreement, that person shall not be entitled to claim any benefit provided by this Convention, except for those provided by Article 24 (Non-Discrimination) and Article 25 (Mutual Agreement Procedure).

Article 5
PERMANENT ESTABLISHMENT

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

2. The term "permanent establishment" includes especially:

a) a place of management;

b) a branch;

c) an office;

d) a factory;

e) a workshop; and

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

3. A building site or construction or installation project, or an installation or drilling rig or ship used for the exploration of natural resources, constitutes a permanent establishment only if it lasts, or the exploration activity continues for more than twelve months.

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

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

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

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

d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;

e) the maintenance of a fixed place of business solely for the purpose 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 the activities mentioned in subparagraphs a) through e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

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

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

7. The fact that a company that is a resident of a Contracting State controls or is controlled by a company that is a resident of the other Contracting State, or that carries on business in that other State (whether through a permanent establishment or otherwise), shall not be taken into account in determining whether either company has a permanent establishment in that other State.

Article 6
INCOME FROM IMMOVABLE PROPERTY (REAL PROPERTY)

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

2. The term "immovable property (real 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 (real property), including livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property (real 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 (real 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 (real property).

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property (real property) of an enterprise.

5. A resident of a Contracting State who is liable to tax in the other Contracting State on a gross basis on income from immovable property (real property) situated in the other Contracting State may elect for any taxable year to compute the tax on such income on a net basis as if such income were business profits attributable to a permanent establishment in such other State. Any such election shall be binding for the taxable year of the election and all subsequent taxable years unless the competent authority of the Contracting State in which the property is situated agrees to terminate the election.

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 are attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits that 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 and dealing wholly independently with the enterprise of which it is a permanent establishment. For this purpose, the profits to be attributed to the permanent establishment shall include only the profits derived from the assets used, risks assumed and activities performed by the permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses that are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

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

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

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

7. In applying this Article, paragraph 6 of Article 10 (Dividends), paragraph 4 of Article 11 (Interest), paragraph 3 of Article 12 (Royalties), paragraph 5 of Article 13 (Gains) and paragraph 2 of Article 21 (Other Income), any income or gain attributable to a permanent establishment during its existence is taxable in the Contracting State where such permanent establishment is situated even if the payments are deferred until such permanent establishment has ceased to exist.

Article 8
SHIPPING AND AIR TRANSPORT

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

2. For purposes of this Article, profits from the operation of ships or aircraft include, but are not limited to:

a) profits from the rental of ships or aircraft on a full (time or voyage) basis;

b) profits from the rental on a bareboat basis of ships or aircraft if the rental income is incidental to profits from the operation of ships or aircraft in international traffic; and

c) profits from the rental on a bareboat basis of ships or aircraft if such ships or aircraft are operated in international traffic by the lessee.

Profits derived by an enterprise from the inland transport of property or passengers within either Contracting State shall be treated as profits from the operation of ships or aircraft in international traffic if such transport is undertaken as part of international traffic.

3. Profits of an enterprise of a Contracting State from the use, maintenance, or rental of containers (including trailers, barges, and related equipment for the transport of containers) shall be taxable only in that Contracting State, except to the extent that those containers are used for transport solely between places within the other Contracting State.

4. The provisions of paragraphs 1 and 3 shall also apply to profits from participation in a pool, a joint business, or an international operating agency.

Article 9
ASSOCIATED ENTERPRISES

1. Where:

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

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

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations that differ from those that would be made between independent enterprises, then any profits that, but for those conditions, would 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 other Contracting State agrees that the profits so included are profits that would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those that 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 that 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 dividends are beneficially owned by a resident of the other Contracting State, except as otherwise provided, the tax so charged shall not exceed:

a) 5 percent of the gross amount of the dividends if the beneficial owner is a company that owns directly at least 10 percent of the voting stock of the company paying the dividends;

b) 15 percent of the gross amount of the dividends in all other cases.

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

3. Notwithstanding paragraph 2, dividends shall not be taxed in the Contracting State of which the company paying the dividends is a resident if:

a) the beneficial owner of the dividends is a pension fund that is a resident of the other Contracting State; and

b) such dividends are not derived from the carrying on of a trade or business by the pension fund or through an associated enterprise.

4. a) Subparagraph a) of paragraph 2 shall not apply in the case of dividends paid by a U.S. Regulated Investment Company (RIC) or a U.S. Real Estate Investment Trust (REIT). In the case of dividends paid by a RIC, subparagraph b) of paragraph 2 and paragraph 3 shall apply. In the case of dividends paid by a REIT, subparagraph b) of paragraph 2 and paragraph 3 shall apply only if:

i) the beneficial owner of the dividends is an individual or pension fund, in either case holding an interest of not more than 10 percent in the REIT;

ii) the dividends are paid with respect to a class of stock that is publicly traded and the beneficial owner of the dividends is a person holding an interest of not more than 5 percent of any class of the REIT's stock; or

iii) the beneficial owner of the dividends is a person holding an interest of not more than 10 percent in the REIT and the REIT is diversified.

b) For purposes of this paragraph, a REIT shall be "diversified" if the value of no single interest in real property exceeds 10 percent of its total interests in real property. For the purposes of this rule, foreclosure property shall not be considered an interest in real property. Where a REIT holds an interest in a partnership, it shall be treated as owning directly a proportion of the partnership's interests in real property corresponding to its interest in the partnership.

c) The rules of this paragraph shall also apply to dividends paid by companies resident in Hungary that are similar to the U.S. companies referred to in this paragraph.

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

6. The provisions of paragraphs 1 through 4 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State, of which the payer is a resident, through a permanent establishment situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 (Business Profits) shall apply.

7. A Contracting State may not impose any tax on dividends paid by a resident of the other State, except insofar as the dividends are paid to a resident of the first-mentioned State or the dividends are attributable to a permanent establishment, nor may it impose tax on a corporation's undistributed profits, except as provided in paragraph 8, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that State.

8. a) A company that is a resident of one of the States and that has a permanent establishment in the other State or that is subject to tax in the other State on a net basis on its income that may be taxed in the other State under Article 6 (Income from Immovable Property (Real Property)) or under paragraphs 1 or 4 of Article 13 (Gains) may be subject in that other State to a tax in addition to the tax allowable under the other provisions of this Convention.

b) Such tax, however, may be imposed:

i) on only the portion of the business profits of the company attributable to the permanent establishment and the portion of the income referred to in subparagraph a) that is subject to tax under Article 6 or under paragraphs 1 or 4 of Article 13 that, in the case of the United States, represents the dividend equivalent amount of such profits or income and, in the case of Hungary, is an amount that is analogous to the dividend equivalent amount; and

ii) at a rate not in excess of the rate specified in paragraph 2 a).

Article 11
INTEREST

1. Interest arising in a Contracting State and beneficially owned by a resident of the other Contracting State may be taxed only in that other State.

2. Notwithstanding the provisions of paragraph 1:

a) interest arising in Hungary that is determined with reference to receipts, sales, income, profits or other cash flow of the debtor or a related person, to any change in the value of any property of the debtor or a related person or to any dividend, partnership distribution or similar payment made

by the debtor or a related person may be taxed in Hungary, and according to the laws of Hungary, but if the beneficial owner is a resident of the United States, the interest may be taxed at a rate not exceeding 15 percent of the gross amount of the interest;

b) interest arising in the United States that is contingent interest of a type that does not qualify as portfolio interest under United States law may be taxed in the United States but, if the beneficial owner of the interest is a resident of Hungary, the interest may be taxed at a rate not exceeding 15 percent of the gross amount of the interest; and

c) interest that is an excess inclusion with respect to a residual interest in a real estate mortgage investment conduit may be taxed by each State in accordance with its domestic law.

3. 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 or prizes attaching to such securities, bonds or debentures, and all other income that is subjected to the same taxation treatment as income from money lent by the taxation law of the Contracting State in which the income arises. Income dealt with in Article 10 (Dividends) and penalty charges for late payment shall not be regarded as interest for the purposes of this Convention.

4. 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, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 (Business Profits) shall apply.

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

Article 12
ROYALTIES

1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State may be taxed only in that other State.

2. The term "royalties" as used in this Article means:

a) payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic, scientific or other work (including cinematographic films), any patent, trademark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience; and

b) gains derived from the alienation of any property described in subparagraph a), to the extent that such gain is contingent on the productivity, use, or disposition of the property.

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

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

Article 13
CAPITAL GAINS

1. Gains derived by a resident of a Contracting State that are attributable to the alienation of immovable property (real property) situated in the other Contracting State may be taxed in that other State.

2. For the purposes of the application of this Article by the United States, the term "immovable property (real property) situated in the other Contracting State" shall include:

a) immovable property (real property) referred to in Article 6 (Income from Immovable Property (Real Property)); and

b) a United States real property interest.

3. For the purposes of the application of this Article by Hungary, the term "immovable property (real property) situated in the other Contracting State" shall include immovable property (real property) referred to in Article 6.

4. Gains derived by a resident of a Contracting State from the alienation of shares or comparable interests deriving more than 50 percent of their value directly or indirectly from immovable property (real property) situated in Hungary may be taxed in Hungary.

5. Gains, other than those dealt with in paragraph 4 of this Article, from the alienation of movable property forming part of the business property of a permanent establishment that an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.

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

7. Gains derived by an enterprise of a Contracting State from the alienation of containers (including trailers, barges and related equipment for the transport of containers) used for the transport of goods or merchandise shall be taxable only in that State, unless those containers are used for transport solely between places within the other Contracting State.

8. Gains from the alienation of any property other than property referred to in paragraphs 1 through 7 shall be taxable only in the Contracting State of which the alienator is a resident.

9. Where an individual, upon ceasing to be a resident of one of the Contracting States, is treated under the taxation law of that State as having alienated any property for its fair market value and is taxed in that State by reason thereof, the individual may elect to be treated for purposes of taxation in the other Contracting State as if the individual had, immediately before ceasing to be a resident of the first-mentioned State, alienated and reacquired such property for an amount equal to its fair market value at such time.

Article 14
INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 15 (Directors' Fees), 17 (Pensions and Income from Social Security), 18 (Government Service), 19 (Students and Trainees) and 20 (Professors and Teachers), 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 any twelve month period commencing or ending in the tax year concerned; and

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

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

3. Notwithstanding the preceding provisions of this Article, remuneration described in paragraph 1 that is derived by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft operated in international traffic as a member of the regular complement of the ship or aircraft shall be taxable only in that State.

Article 15
DIRECTORS' FEES

Directors' fees and other compensation derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company that is a resident of the other Contracting State may be taxed in that other Contracting State.

Article 16
ENTERTAINERS AND SPORTSMEN

1. Income derived by a resident of a Contracting State as an entertainer, such as a theater, motion picture, radio, or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, which income would be exempt from tax in that other Contracting State under the provisions of Articles 7 (Business Profits) and 14 (Income from Employment) may be taxed in that other State, except where the amount of the gross receipts derived by such entertainer or sportsman, including expenses reimbursed to him or borne on his behalf, from such activities does not exceed twenty thousand United States dollars ($20,000) or its equivalent in Hungarian Forints for the tax year of the payment.

2. Where income in respect of activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income, notwithstanding the provisions of Article 7 or 14, may be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised unless the contract pursuant to which the personal activities are performed allows that other person to designate the individual who is to perform the personal activities.

Article 17
PENSIONS AND INCOME FROM SOCIAL SECURITY

1. a) Pensions and other similar remuneration beneficially owned by a resident of a Contracting State shall be taxable only in that State.

b) Notwithstanding subparagraph a), the amount of any such pension or remuneration arising in a Contracting State that, when received, would be exempt from taxation in that State if the beneficial owner were a resident thereof shall be exempt from taxation in the Contracting State of which the beneficial owner is a resident.

2. Notwithstanding the provisions of paragraph 1:

a) payments made by the United States under provisions of the social security or similar legislation of the United States to a resident of Hungary shall be taxable only in the United States; and

b) payments made by Hungary under the mandatory pension scheme of Hungary to a resident or citizen of the United States shall be taxable only in Hungary.

3. Where an individual who is a resident of one of the States is a member or beneficiary of, or participant in, a pension fund that is a resident of the other State, income earned by the pension fund may be taxed as income of that individual only when, and, subject to the provisions of paragraph 1, to the extent that, it is paid to, or for the benefit of, that individual from the pension fund (and not transferred to another pension fund in that other State).

Article 18
GOVERNMENT SERVICE

1. Notwithstanding the provisions of Articles 14 (Income from Employment), 15 (Directors' Fees), 16 (Entertainers and Sportsmen), 19 (Students and Trainees) and 20 (Professors and Teachers):

a) Salaries, wages and other remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State, or subdivision or local authority shall, subject to the provisions of subparagraph b), be taxable only in that State;

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

i) is a national of that State; or

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

2. Notwithstanding the provisions of paragraph 1 of Article 17 (Pensions and Income from Social Security):

a) any pension and other similar remuneration paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority (other than a payment to which paragraph 2 of Article 17 applies) shall, subject to the provisions of subparagraph b), be taxable only in that State;

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

3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages and other remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 19
STUDENTS AND TRAINEES

1. Payments, other than compensation for personal services, received by a student or business trainee who is, or was immediately before visiting a Contracting State, a resident of the other Contracting State, and who is present in the first-mentioned State for the primary purpose of his education or training, shall not be taxed in that State, provided that such payments arise outside that State and are for the purpose of his maintenance, education or training. The exemption from tax provided by this paragraph shall apply to a business trainee only for a period of time not exceeding one year from the date the business trainee first arrives in the first-mentioned Contracting State for the purpose of training.

2. A student or business trainee within the meaning of paragraph 1 shall be exempt from tax by the Contracting State in which the individual is temporarily present with respect to income from personal services in an aggregate amount equal to $9,000 or its equivalent in Hungarian Forints annually. The competent authorities shall, every five years, adjust the amount provided in this subparagraph to the extent necessary to take into account changes in the U.S. personal exemption and the standard deduction.

3. For purposes of this Article, a business trainee is an individual:

a) who is temporarily in a Contracting State for the purpose of securing training required to qualify the individual to practice a profession or professional specialty; or

b) who is temporarily in a Contracting State as an employee of, or under contract with, a resident of the other Contracting State, for the primary purpose of acquiring technical, professional, or business experience from a person other than that resident of the other Contracting State (or a person related to such resident of the other Contracting State).

Article 20
PROFESSORS AND TEACHERS

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

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

Article 21
OTHER INCOME

1. Items of income beneficially owned by 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 real property as defined in paragraph 2 of Article 6 (Income from Immovable Property (Real Property)), if the beneficial owner of the income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 (Business Profits) shall apply.

Article 22
LIMITATION ON BENEFITS

1. Except as otherwise provided in this Article, a resident of a Contracting State shall not be entitled to the benefits of this Convention otherwise accorded to residents of a Contracting State unless such resident is a "qualified person" as defined in paragraph 2.

2. A resident of a Contracting State shall be a qualified person for a taxable year if the resident is:

a) an individual;

b) a Contracting State, or a political subdivision or local authority thereof;

c) a company, if:

i) the principal class of its shares (and any disproportionate class of shares) is regularly traded on one or more recognized stock exchanges, and either:

A) its principal class of shares is primarily traded on one or more recognized stock exchanges located in the Contracting State of which the company is a resident (or, in the case of a company resident in Hungary, on a recognized stock exchange located within the European Union or in any other European Free Trade Association state or, in the case of a company resident in the United States, on a recognized stock exchange located in another state that is a party to the North American Free Trade Agreement); or

B) the company's primary place of management and control is in the Contracting State of which it is a resident; or

ii) at least 50 percent of the aggregate vote and value of the shares (and at least 50 percent of any disproportionate class of shares) in the company is owned directly or indirectly by five or fewer companies entitled to benefits under clause i) of this subparagraph, provided that, in the case of indirect ownership, each intermediate owner is a resident of either Contracting State;

d) a person described in paragraph 2 of Article 4 (Residence) of this Convention, provided that, in the case of a person described in subparagraph a) of that paragraph, more than 50 percent of the person's beneficiaries, members or participants are individuals resident in either Contracting State; or

e) a person other than an individual, if:

i) on at least half the days of the taxable year, persons who are residents of that Contracting State and that are entitled to the benefits of this Convention under subparagraph a), subparagraph b), clause i) of subparagraph c), or subparagraph d) of this paragraph own, directly or indirectly, shares or other beneficial interests representing at least 50 percent of the aggregate voting power and value (and at least 50 percent of any disproportionate class of shares) of the person, provided that, in the case of indirect ownership, each intermediate owner is a resident of that Contracting State, and

ii) less than 50 percent of the person's gross income for the taxable year, as determined in the person's State of residence, is paid or accrued, directly or indirectly, to persons who are not residents of either Contracting State entitled to the benefits of this Convention under subparagraph a), subparagraph b), clause i) of subparagraph c), or subparagraph d) of this paragraph in the form of payments that are deductible for purposes of the taxes covered by this Convention in the person's State of residence (but not including arm's length payments in the ordinary course of business for services or tangible property and payments in respect of financial obligations to a bank (including, in the case of Hungary, a credit institution) that is not related to the payor).

3. a) A resident of a Contracting State will be entitled to benefits of the Convention with respect to an item of income derived from the other State, regardless of whether the resident is a qualified person, if the resident is engaged in the active conduct of a trade or business in the first-mentioned State (other than the business of making or managing investments for the resident's own account, unless these activities either are insurance or securities activities carried on by an insurance company or registered securities dealer, or, in the case of a resident of the United States, are banking activities carried on by a bank, or, in the case of a resident of Hungary, are regulated financial services carried on by a financial institution), and the income derived from the other Contracting State is derived in connection with, or is incidental to, that trade or business.

b) If a resident of a Contracting State derives an item of income from a trade or business activity conducted by that resident in the other Contracting State, or derives an item of income arising in the other Contracting State from a related person, the conditions described in subparagraph a) shall be considered to be satisfied with respect to such item only if the trade or business activity carried on by the resident in the first-mentioned Contracting State is substantial in relation to the trade or business activity carried on by the resident or such person in the other Contracting State. Whether a trade or business activity is substantial for the purposes of this paragraph will be determined based on all the facts and circumstances.

c) For purposes of applying this paragraph, activities conducted by persons connected to a person shall be deemed to be conducted by such

person. A person shall be connected to another if one possesses at least 50 percent of the beneficial interest in the other (or, in the case of a company, at least 50 percent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or another person possesses at least 50 percent of the beneficial interest (or, in the case of a company, at least 50 percent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in each person. In any case, a person shall be considered to be connected to another if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same person or persons.

4. A company that is a resident of a Contracting State shall also be entitled to the benefits of the Convention if:

a) at least 95 percent of the aggregate voting power and value of its shares (and at least 50 percent of any disproportionate class of shares) is owned, directly or indirectly, by seven or fewer persons that are equivalent beneficiaries; and

b) less than 50 percent of the company's gross income, as determined in the company's State of residence, for the taxable year is paid or accrued, directly or indirectly, to persons who are not equivalent beneficiaries, in the form of payments (but not including arm's length payments in the ordinary course of business for services or tangible property), that are deductible for the purposes of the taxes covered by this Convention in the company's State of residence.

5. A person that is a resident of a Contracting State shall also be entitled to all the benefits of this Convention otherwise accorded to residents of a State if that person functions as a headquarters company for a multinational corporate group and that resident satisfies any specified conditions for the obtaining of such benefits other than those of this Article. A person shall be considered a headquarters company for this purpose only if:

a) it provides a substantial portion of the overall supervision and administration of the group, which may include, but can not be principally, group financing;

b) the corporate group consists of corporations resident in, and engaged in an active business in, at least five countries, and the business activities carried on in each of the five countries (or five groupings of countries) generate at least 10 percent of gross income of the group;

c) the business activities carried on in any one country other than the Contracting State of residence of the headquarters company generate less than 50 percent of the gross income of the group;

d) no more than 25 percent of its gross income is derived from the other Contracting State;

e) it has, and exercises, independent discretionary authority to carry out the functions referred to in subparagraph a);

f) it is subject to the same income taxation rules in its country of residence as persons described in paragraph 3; and

g) the income derived in the other Contracting State either is derived in connection with, or is incidental to, the active business referred to in subparagraph b).

If the gross income requirements of subparagraphs b), c) or d) of this paragraph are not fulfilled, they will be deemed to be fulfilled if the required ratios are met when averaging the gross income of the preceding four years.

6. Notwithstanding the preceding provisions of this Article, where an enterprise of a Contracting State derives income from the other Contracting State, and that income is attributable to a permanent establishment which that enterprise has in a third state, the tax benefits that would otherwise apply under the other provisions of the Convention will not apply to that income if the profits of that permanent establishment are subject to a combined aggregate effective rate of tax in the first-mentioned Contracting State and third state is less than 60 percent of the general rate of company tax applicable in the first-mentioned Contracting State. Any dividends, interest or royalties to which the provisions of this paragraph apply shall be subject to tax in the other Contracting State at a rate that shall not exceed 15 percent of the gross amount thereof. Any other income to which the provisions of this paragraph apply shall be subject to tax under the provisions of the domestic law of the other Contracting State, notwithstanding any other provision of the Convention. The provisions of this paragraph shall not apply if:

a) in the case of royalties, the royalties are received as compensation for the use of, or the right to use, intangible property produced or developed by the permanent establishment itself; or

b) in the case of any other income, the income derived from the other Contracting State is derived in connection with, or is incidental to, the active conduct of a trade or business carried on by the permanent establishment in the third state (other than the business of making, managing or simply holding investments for the enterprise's own account, unless these activities are securities activities carried on by a registered securities dealer, or, in the case of an enterprise of the United States, are banking activities carried on by a bank, or, in the case of an enterprise of Hungary, are regulated financial services carried on by a financial institution).

7. A resident of a Contracting State that is not entitled to benefits pursuant to the preceding paragraphs of this Article shall, nevertheless, be granted benefits of the

Convention, if the competent authority of the other Contracting State determines that the establishment, acquisition or maintenance of such person and the conduct of its operations did not have as one of its principal purposes the obtaining of benefits under this Convention. The competent authority of the Contracting State in which the income arises will consult with the competent authority of the other Contracting State before denying the benefits of the Convention under this paragraph.

8. For purposes of this Article:

a) the term "recognized stock exchange" means:

i) the NASDAQ System owned by the National Association of Securities Dealers, Inc. and any stock exchange registered with the U.S. Securities and Exchange Commission as a national securities exchange under the U.S. Securities Exchange Act of 1934;

ii) the stock exchange of Budapest;

iii) the stock exchanges of Amsterdam, Brussels, Frankfurt, London, Paris, Vienna, Warsaw and Zurich;

iv) any other stock exchange agreed upon by the competent authorities;

b) the term "principal class of shares" means the ordinary or common shares of the company, provided that such class of shares represents the majority of the voting power and value of the company. If no single class of ordinary or common shares represents the majority of the aggregate voting power and value of the company, the "principal class of shares" are those classes that in the aggregate represent a majority of the aggregate voting power and value of the company;

c) the term "disproportionate class of shares" means any class of shares of a company resident in one of the Contracting States that entitles the shareholder to disproportionately higher participation, through dividends, redemption payments or otherwise, in the earnings generated in the other State by particular assets or activities of the company;

d) a company's "primary place of management and control" will be in the Contracting State of which it is a resident only if executive officers and senior management employees exercise day-to-day responsibility for more of the strategic, financial and operational policy decision making for the company (including its direct and indirect subsidiaries) in that State than in any other state and the staff of such persons conduct more of the day-to-day activities necessary for preparing and making those decisions in that State than in any other state;

e) the term "equivalent beneficiary" means a resident of a member state of the European Union or of any other European Free Trade Association state or of a party to the North American Free Trade Agreement, but only if that resident:

i) A) would be entitled to all the benefits of a comprehensive convention for the avoidance of double taxation between any member state of the European Union or any other European Free Trade Association state or any party to the North American Free Trade Agreement and the State from which the benefits of this Convention are claimed under provisions analogous to subparagraph a), b), clause i) of subparagraph c) or subparagraph d) of paragraph 2 of this Article, provided that if such convention does not contain a comprehensive limitation on benefits article, the person would be entitled to the benefits of this Convention by reason of subparagraph a), b), clause i) of subparagraph c) or subparagraph d) of paragraph 2 of this Article if such person were a resident of one of the States under Article 4 of this Convention; and

B) with respect to income referred to in Article 10 (Dividends), 11 (Interest) or 12 (Royalties) of this Convention, would be entitled under such convention to a rate of tax with respect to the particular class of income for which benefits are being claimed under this Convention that is at least as low as the rate applicable under this Convention; or

ii) is a resident of a Contracting State that is entitled to the benefits of this Convention by reason of subparagraph a), b), clause i) of subparagraph c) or subparagraph d) of paragraph 2 of this Article; and

f) with respect to dividends, interest or royalties arising in Hungary and beneficially owned by a company that is a resident of the United States, a company that is a resident of a member state of the European Union will be treated as satisfying the requirements of subparagraph e) i) B) of this paragraph for purposes of determining whether such United States resident is entitled to benefits under this paragraph if a payment of dividends, interest or royalties arising in Hungary and paid directly to such resident of a member state of the European Union would have been exempt from tax pursuant to any directive of the European Union, notwithstanding that the income tax convention between Hungary and that other member state of the European Union would provide for a higher rate of tax with respect to such payment than the rate of tax applicable to such United States company under Article 10, 11 or 12 of this Convention.

Article 23
RELIEF FROM DOUBLE TAXATION

1. In the case of Hungary, double taxation will be relieved as follows:

a) Where a resident of Hungary derives income that, in accordance with the provisions of this Convention may be taxed in the United States, Hungary shall, subject to the provisions of subparagraphs b) and c), exempt such income from tax.

b) Where a resident of Hungary derives items of income that, in accordance with the provisions of Articles 10 (Dividends) and 11 (Interest), may be taxed in the United States, Hungary 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 that 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 Hungary is exempt from tax in Hungary, Hungary may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

d) The provisions of subparagraph a) shall not apply to income derived by a resident of Hungary where the United States applies the provisions of this Convention to exempt such income from tax or applies the provisions of paragraph 2 of Article 10 or paragraph 2 of Article 11 to such income.

2. 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 applicable to residents and citizens:

a) the income tax paid or accrued to Hungary by or on behalf of such resident or citizen; and

b) in the case of a United States company owning at least 10 percent of the voting stock of a company that is a resident of Hungary and from which the United States company receives dividends, the income tax paid or accrued to Hungary by or on behalf of the payer with respect to the profits out of which the dividends are paid.

For the purposes of this paragraph, the taxes referred to in paragraphs 3 a) and 4 of Article 2 (Taxes Covered) shall be considered income taxes.

3. For the purposes of applying paragraph 2 of this Article, an item of gross income, as determined under the laws of the United States, derived by a resident of the

United States that, under this Convention, may be taxed in Hungary shall be deemed to be income from sources in Hungary.

4. Where a United States citizen is a resident of Hungary:

a) with respect to items of income that under the provisions of this Convention are exempt from United States tax or that are subject to a reduced rate of United States tax when derived by a resident of Hungary who is not a United States citizen, Hungary shall allow as a credit against Hungarian tax, only the tax paid, if any, that the United States may impose under the provisions of this Convention, other than taxes that may be imposed solely by reason of citizenship under the saving clause of paragraph 4 of Article 1 (General Scope);

b) for purposes of applying paragraph 2 to compute United States tax on those items of income referred to in subparagraph a), the United States shall allow as a credit against United States tax the income tax paid to Hungary after the credit referred to in subparagraph a); the credit so allowed shall not reduce the portion of the United States tax that is creditable against the Hungarian tax in accordance with subparagraph a); and

c) for the exclusive purpose of relieving double taxation in the United States under subparagraph b), items of income referred to in subparagraph a) shall be deemed to arise in Hungary to the extent necessary to avoid double taxation of such income under subparagraph b).

Article 24
NON-DISCRIMINATION

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

2. The taxation on a permanent establishment that 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.

3. The provisions of paragraphs 1 and 2 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 that it grants to its own residents.

4. Except where the provisions of paragraph 1 of Article 9 (Associated Enterprises), paragraph 5 of Article 11 (Interest), or paragraph 4 of Article 12 (Royalties) apply, interest, royalties, and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith that is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

6. Nothing in this Article shall be construed as preventing either Contracting State from imposing a tax as described in paragraph 8 of Article 10 (Dividends).

7. The provisions of this Article shall, notwithstanding the provisions of Article 2 (Taxes Covered), apply to taxes of every kind and description imposed by a Contracting State or a political subdivision or local authority thereof.

Article 25
MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for such person in taxation not in accordance with the provisions of this Convention, it may, irrespective of the remedies provided by the domestic law of those States, present its case to the competent authority of the Contracting State of which the person is a resident or, if his case comes under paragraph 1 of Article 24 (Non-Discrimination), to that of the Contracting State of which he is a 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 a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits or other procedural limitations in the domestic law of the Contracting States, provided that the competent authority of the other State has received notice from the first-mentioned competent authority that such a case exists within six years from the end of the taxable year to which the case relates.

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 also may consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities also may agree to increases in any specific dollar amounts referred to in the Convention to reflect economic or monetary developments.

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

Article 26
EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes of every kind imposed by a Contracting State to the extent that the taxation thereunder is not contrary to the Convention, including information relating to the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, such taxes. The exchange of information is not restricted by paragraph 1 of Article 1 (General Scope) or Article 2 (Taxes Covered).

2. Any information received under this Article by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment, collection, or administration of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes referred to above, or the oversight of such functions. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

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

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

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

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

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

6. 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 authenticated copies of unedited original documents (including books, documents, statements, records, accounts, and writings), to the extent such deposition and documents can be obtained under the laws and administrative practices of such other State with respect to its own taxes.

Article 27
MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

Article 28
ENTRY INTO FORCE

1. This Convention shall be subject to ratification in accordance with the applicable procedures of each Contracting State, and instruments of ratification shall be exchanged as soon thereafter as possible.

2. This Convention shall enter into force on the date of the exchange of instruments of ratification and its provisions shall have effect:

a) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of the second month next following the date on which the Convention enters into force; and

b) in respect of 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.

3. 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 February 12, 1979 and the related exchange of letters signed the same day, ("the prior Convention") shall cease to have effect in relation to any tax from the date on which this Convention has effect in relation to that tax in accordance with paragraph 2 of this Article. Notwithstanding the preceding sentence, where any person entitled to benefits under the prior Convention would have been entitled to greater benefits thereunder than under this Convention, the prior Convention shall, at the election of such person, continue to have effect in its entirety with respect to such person's taxes until December 31, 2010. The prior Convention shall terminate on the last date on which it has effect in relation to any tax in accordance with the foregoing provisions of this paragraph.

4. Notwithstanding the entry into force of this Convention, an individual who was entitled to benefits of Article 18 (Students and Trainees) and Article 17 (Teachers) of the prior Convention at the time of the entry into force of this Convention shall continue to be entitled to such benefits until such time as the individual would cease to be entitled to such benefits if the prior Convention remained in force.

Article 29
TERMINATION

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention provided that 6-months' prior notice of termination has been given through diplomatic channels. In such event, the Convention shall cease to have effect:

a) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January next following the expiration of the 6-months' period; and

b) in respect of other taxes, for taxable periods beginning on or after the first day of January next following the expiration of the 6–months' period.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention.

DONE at [illegible] in duplicate, in the English and Hungarian languages, both texts being equally authentic, this 4 day of [illegible], 2010.

for the Government of
the United States of America:

for the Government of
the Republic of Hungary:

Embassy of the United States of America

Budapest

February 4, 2010

His Excellency
Dr. Péter Oszkó
Minister of Finance
Republic of Hungary

Excellency,

I have the honor to refer to the Convention signed today between the Government of the United States of America and the Government of the Republic of Hungary for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (the "Convention") and to confirm on behalf of the Government of the United States the following understandings reached between our two Governments:

1. With reference to paragraph 6 of Article 1 (General Scope) of the Convention, it is understood that income from sources within one of the Contracting States received by an entity that is organized in either of the Contracting States and that is treated as fiscally transparent under the laws of either Contracting State shall be treated as income derived by a resident of the other Contracting State to the extent that such income is subject to tax as the income of a resident of the other Contracting State. It is further understood that this paragraph shall not apply with respect to income received by an entity that is organized in a third state.

2. With reference to paragraph 2 of Article 2 (Taxes Covered) of the Convention, it is understood that the term "movable property" means all property other than immovable property (real property) as defined in Article 6 (Income from Immovable Property (Real Property)) of the Convention.

3. With reference to paragraph 1) b) of Article 3 (General Definitions) of the Convention, it is understood that partnerships (betéti társaság, közkereseti társaság) established in Hungary are taxed by Hungary as corporations, and therefore fall within the definition of "company".

4. With reference to paragraph 1) j) i) of Article 3 (General Definitions) of the Convention, it is understood that in the case of the United States, the term "nationality" includes citizenship.

5. With reference to paragraph 2 of Article 7 (Business Profits) of the Convention, it is understood that the principles of the OECD Transfer Pricing Guidelines shall apply, by analogy, for the purposes of determining the profits attributable to a permanent establishment. Accordingly, any of the methods described therein, including profits methods, may be used to determine the income of a permanent establishment so long as those methods are applied in accordance with the Guidelines.

6. With reference to paragraph 2) e) i) of Article 22 (Limitation on Benefits), it is understood that the conditions of paragraph 2) e) i) shall be met if the ownership test is satisfied on at least half the days of the taxable year, without regard to whether the days on which the test is satisfied are consecutive.

7. With reference to paragraph 2) e) ii) and 4) b) of Article 22 (Limitation on Benefits) of the Convention, it is understood that the term "accrued" shall have the meaning given to it under the domestic law, including the accounting principles applicable for tax purposes, of the State of residence of the person seeking the benefits of the Convention.

8. With reference to paragraph 3) a) and 6) b) of Article 22 (Limitation on Benefits) of the Convention, it is understood that the term "regulated financial services" means the services listed in paragraph (1) of Section 3 of Hungarian Act CXII of 1996 on Credit Institutions and Financial Enterprises, or any subsequently enacted similar legislation agreed to by the competent authorities.

9. With reference to paragraph 3) a) of Article 22 (Limitation on Benefits), it is understood that a resident of a Contracting State engaged in the active conduct of a trade or business in that State may obtain the benefits of the Convention with respect to an item of income derived in the other Contracting State under this paragraph if that item of income is derived in connection with or is incidental to that trade or business. The following example illustrates this result:

HUCo is a company resident in Hungary. HUCo's main function is the development of new drugs, and in carrying out this business HUCo operates a large research and development facility in Hungary. Once HUCo's staff completes its research and the drugs are approved for sale, HUCo licenses the new drugs it develops to other members of its multinational group, including USCo, a company resident in the United States. USCo manufactures HUCo's products in the United States, and pays royalties to HUCo with respect to the license agreements for the drugs that HUCo develops. HUCo is engaged in the active conduct of a trade or business in Hungary. The royalties paid by USCo are derived in connection with HUCo's research and development activity. Therefore, assuming HUCo's activities are substantial in relationship to the activities of USCo, as discussed in paragraph 10 below, HUCo is entitled to treaty benefits with respect to its U.S.-source royalty income.

10. With reference to paragraph 3) b) of Article 22 (Limitation on Benefits) of the Convention, it is understood that the substantiality requirement of paragraph 3) b) is intended to prevent a narrow case of treaty-shopping abuses in which a company attempts to qualify for treaty benefits by engaging in de minimis connected business activities that have little economic cost or effect with respect to the company's business as a whole.

Whether a trade or business is substantial for purposes of this paragraph shall be determined based on all the facts and circumstances. Such determination shall take into account the comparative sizes of the trades or businesses in each Contracting State (measured by reference to asset values, income and payroll expenses), the nature of the activities performed in each Contracting State, and, in cases where a trade or business is conducted in both Contracting States, the relative contributions made to that trade or business in each Contracting State. In

making each determination or comparison, due regard shall be given to the relative sizes of the U.S. and Hungarian economies.

In any case, however, a trade or business shall be deemed substantial if, for the preceding taxable year, or for the average of the three preceding taxable years, the asset value, the gross income, and the payroll expense that are related to the trade or business in the first-mentioned State equal at least 7.5 percent of the resident's (and any related parties') proportionate share of the asset value, gross income and payroll expense, respectively, that generated the income in the other State, and the average of the three ratios exceeds 10 percent. If the resident owns, directly or indirectly, less than 100 percent of an activity conducted in either State, only the resident's proportionate interest in such activity shall be taken into account for purposes of the test described in this paragraph.

The following examples demonstrate the application of the substantiality requirement.

Example 1

(i) V, a resident of a country that does not have a tax treaty with the United States, wants to acquire a U.S. financial institution. However, since its country of residence does not have a tax treaty with the United States, any dividends generated by the investment would be subject to withholding under U.S. domestic law. V establishes a Hungarian corporation with one office in a small town to provide investment advice to local residents. That Hungarian corporation acquires the U.S. financial institution with capital provided by V.

(ii) The U.S. source income is generated from business activities in the United States that are related to the investment advisory business conducted by the Hungarian parent. However, the substantiality test would not be met in this example, so the dividends would remain subject to withholding under the domestic law of the United States rather than the rate provided in Article 10 (Dividends).

Example 2

(i) S is a banking organization that is organized and managed and controlled in Hungary. S has a large number of local branches and customers in Hungary and sufficient employees to provide banking services to those customers. However, because the banking market in Hungary is crowded with competitors, S determined that it needed to establish branches outside Hungary in order to expand its business. In accordance with that plan, S established branches in several major cities in the United States to engage in the same type of banking business as in Hungary. Over time, the U.S. branches have grown significantly, and now are equal in size to the entire Hungarian business of S.

(ii) The business activities of the U.S. branches of S are related to the business conducted by S in Hungary. Because S has a large number of local branches and employees in Hungary, the activities of S in Hungary are substantial for purposes of subparagraph 3) b) of Article 22.

Example 3

HUCo, a Hungarian corporation, owns 100 percent of the stock of USCo, a U.S. corporation, and 50 percent of the stock of HUSub, a Hungarian corporation. HUCo does not directly conduct an active trade or business. USCo and HUSub are actively engaged in the music business. USCo has a number of employees who are responsible for discovering new recording artists. USCo also produces recordings and is responsible for production and distribution within the United States. Employees of HUSub are responsible for promoting the recordings in Hungary and developing a distribution strategy for the rest of Europe. European sales of U.S. recording artists contribute substantially to the profitability of USCo.

HUCo receives payments of interest and dividends from USCo. In order for these payments to be entitled to treaty benefits under paragraph 3 of Article 22, HUCo must be considered to be engaged in the active conduct of a trade or business in Hungary. Under subparagraph 3) b), because HUCo and USCo are related persons, the activities conducted in Hungary and attributed to HUCo must be substantial in relation to the activities conducted by USCo. HUCo will be deemed to satisfy this requirement if the ratio of the assets, income and payroll attributable to HUCo to the assets, income and payroll attributable to USCo are at least 10 percent and each ratio is at least 7.5 percent.

For each of the four most recently concluded taxable years, the asset values, gross income and payroll expenses of these corporations that are attributable to the trade or business were as follows:

	USCo	HUSub
Assets	$300	$50
Income	50	10
Payroll	60	10

HUCo has no assets, income or payroll that are attributable to the trade or business. The assets, income and payroll of HUSub that are related to the trade or business may be attributed to HUCo, however, under subparagraph c), since HUCo is connected to HUSub by reason of its 50% beneficial ownership in HUSub. Accordingly, 50 percent of HUSub's assets, income and payroll are attributed to HUCo. The amounts attributed to HUCo and the percentage of USCo's corresponding amounts are as follows:

	HUCo	HUCo as a Percentage of USCo
Assets	$25	8.3
Income	5	10.0
Payroll	5	8.3

Since none of these percentages is greater than 10 percent, HUCo does not meet the requirements for the safe harbor described above. Moreover, application of the three-year average rule does not change the result, since the relevant amounts for the three preceding years (and the resulting ratios) are equal to those for the first preceding taxable year.

Nevertheless. HUCo will still qualify for benefits with respect to dividends received from USCo. The activities performed by HUSub are substantial in relation to those of USCo, taking into account the contributions of each company to the overall business of the group.

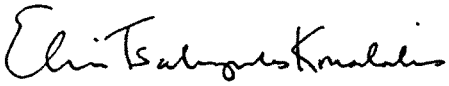
11. With reference to paragraph 4) a) of Article 22 (Limitation on Benefits) of the Convention, it is understood that the competent authorities of both countries shall ordinarily grant treaty benefits under paragraph 7 of Article 22 in cases where a company claiming benefits under paragraph 4 is owned directly by up to 10 individuals, provided that such individuals are equivalent beneficiaries (as defined in paragraph 8) e)) and the requirements of paragraph 4) b) and any additional requirements for benefits prescribed by the Convention are satisfied.

12. The Government of the Republic of Hungary has informed the Government of the United States of America that it understands that the obligations of the Republic of Hungary under this Convention are consistent with its obligations as a member of the European Union. Should the Republic of Hungary at some point in the future find that its obligations under this Convention are inconsistent with the requirements that apply to Hungary as a member of the European Union, either Contracting State may seek consultations regarding the possible negotiation of amendments to the Convention.

I have the further honor to propose to you, on behalf of the Government of the United States of America, that the present note and Your Excellency's affirmative reply thereto confirming that your Government shares these understandings shall constitute an agreement between our two Governments on these points which shall enter into force on the same date as the Convention.

Accept, Excellency, the assurances of my highest consideration.

Sincerely yours,



Eleni Tsakopoulos Kounalakis
Ambassador

U.S. Department of State
Office of Language Services
Translating Division

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Translation

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The Minister of Finance

Budapest, February 4, 2010

Her Excellency
Eleni Tsakopoulos Kounalakis
Ambassador Extraordinary and Plenipotentiary
of the United States of America
to Hungary

Madam Ambassador:

I have the honor to acknowledge receipt of Your Excellency's note of today's date, concerning the Income Tax Convention signed today, which reads as follows:

[The Hungarian translation of the note from the Embassy of the United States of America at Budapest, signed by Ambassador Eleni Tsakopoulos Kounalakis, and dated February 4, 2010, has been compared with the English text, and the two versions have been found to have the same meaning in all substantive respects]

I wish to inform you that the Government of the Republic of Hungary shares the understandings set forth in Your Excellency's note. Therefore, I have the honor to confirm that Your Excellency's note and

this note in reply shall constitute an agreement between our two Governments on these points which shall enter into force on the same date as the Convention.

Accept, Madam Ambassador, the assurances of my highest consideration.

Sincerely yours,

[signature]

Dr. Péter Oszkó
Minister of Finance
of the Republic of Hungary

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