

**SYNTHESISED TEXT OF THE MULTILATERAL CONVENTION TO IMPLEMENT TAX
TREATY RELATED MEASURES TO PREVENT BASE EROSION
AND PROFIT SHIFTING (MLI) AND THE AGREEMENT
BETWEEN THE GOVERNMENT OF GEORGIA AND THE GOVERNMENT OF
HUNGARY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE
PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES
ON INCOME AND ON CAPITAL**

General disclaimer on the Synthesised text document

This document presents the synthesised text for the application of the Agreement between The Government of Georgia and The Government of Hungary for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital signed on 16 February 2012 (the “Agreement”), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by the Government of Georgia and the Government of Hungary on 7 June 2017 (the “MLI”).

The document was prepared on the basis of the MLI position of Georgia submitted to the Depository upon ratification on 29 March 2019 and of the MLI position of The Government of Hungary submitted to the Depository upon ratification on 25 March 2021. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on the Agreement.

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

The provisions of the MLI that are applicable with respect to the provisions of the Agreement are included in boxes throughout the text of this document in the context of the relevant provisions of the Agreement. The boxes containing the provisions of the MLI have generally been inserted in accordance with the ordering of the provisions of the 2017 OECD Model Tax Convention.

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made to parts of provisions of the MLI that describe existing provisions of the Agreement: descriptive language has been replaced by legal references of the existing provisions to ease the readability.

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

References

The copies of the legal texts of the MLI and the Agreement can be found at the following links:

The MLI:

<http://www.oecd.org/tax/treaties/multilateral-convention-to-implement-tax-treaty-relatedmeasures-to-prevent-BEPS.pdf>

In Georgia:

<https://mof.ge/en/5128>

The MLI position of Georgia submitted to the Depositary upon ratification on 29 March 2019 and the MLI position of Hungary submitted to the Depositary upon ratification on 25 March 2021 can be found on the MLI Depositary (OECD) webpage. (<http://www.oecd.org/tax/treaties/beps-mli-signatories-and-parties.pdf>).

Disclaimer on the entry into effect of the provisions of the MLI

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

Dates of the deposit of instruments of ratification, acceptance or approval: 29 March 2019 for Georgia and 25 March 2021 for Hungary.

Entry into force of the MLI: 1 July 2019 for Georgia and 1 July 2021 for Hungary.

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

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

**AGREEMENT BETWEEN THE GOVERNMENT OF GEORGIA AND THE GOVERNMENT
OF HUNGARY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF
FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

The Government of Georgia and the Government of Hungary

[REPLACED by paragraph 1 of Article 6 of the MLI] [Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, and to further develop and facilitate their relationship]

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

ARTICLE 6 OF THE MLI - PURPOSE OF A COVERED TAX AGREEMENT

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

Have agreed as follows:

Article 1
PERSONS COVERED

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

Article 2
TAXES COVERED

1. This Agreement shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its administrative-territorial units or local authorities, irrespective of the manner in which they are levied.

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

3. The existing taxes to which this Agreement shall apply are in particular:

(a) in the case of Georgia:

- (i) profit tax;
- (ii) income tax;
- (iii) property tax.

(hereinafter referred to as “Georgian tax”);

(b) in the case of Hungary:

- (i) the personal income tax;
- (ii) the corporate tax;
- (iii) the land parcel;
- (iv) the building tax.

(hereinafter referred to as “Hungarian Tax”).

4. This Agreement shall also apply to any identical or substantially similar taxes that are imposed after the date of signature of this Agreement 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 respective taxation laws.

Article 3
GENERAL DEFINITIONS

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

(a) the term “Georgia” means the territory recognised by the international community within the state borders of Georgia, including land territory, internal waters and territorial sea, the air space above them, in respect of which Georgia exercises its sovereignty, as well as the contiguous zone, the exclusive economic zone and continental shelf adjacent to its territorial sea, in respect of which Georgia may exercise its sovereign rights in accordance with the international law;

(b) the term “Hungary” means Hungary and, when used in a geographical sense, it means the territory of Hungary;

(c) the terms “a Contracting State” and “the other Contracting State” mean Georgia or Hungary, as the context requires;

(d) the term “person” includes an individual, a company and any other body of persons;

(e) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;

(f) the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(g) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(h) the term “competent authority” means:

(i) in the case of Georgia, the Ministry of Finance or its authorised representative;

(ii) in the case of Hungary, the minister responsible for tax policy or his authorised representative;

(i) the term “national” in relation to a Contracting State means:

(i) any individual possessing the nationality or citizenship of that Contracting State;

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

2. As regards the application of this Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which this Agreement 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 Agreement, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature, and also includes that State and any administrative territorial unit 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 capital situated therein.

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

(a) he shall be deemed to be a resident 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 (centre of vital interests);

(b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident 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 settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

Article 5
PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, 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 constitutes a permanent establishment only if it lasts 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 activities mentioned in subparagraphs (a) to (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 which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

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

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

Article 6
INCOME FROM IMMOVABLE PROPERTY

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

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

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

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

Article 7
BUSINESS PROFITS

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

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

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

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

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

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

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

Article 8
SHIPPING AND AIR TRANSPORT

1. Profits derived by a resident of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that Contracting State.
2. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9
ASSOCIATED ENTERPRISES

1. Where

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

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

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

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

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:

(a) 0 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership that is not liable to tax), which has held directly at least 25 per cent of the capital of the company paying the dividends for an uninterrupted period of at least 12 months prior to the decision to distribute the dividends;

(b) 5 per cent 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.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

3. The term “dividends” as used in this Article means income from shares “jouissance” shares or “jouissance” rights, mining shares, founders’ shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

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

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11
INTEREST

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

2. The term “interest” as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, but does not include income dealt with in Article 10 of this Agreement. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

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

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

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 Contracting State, due regard being had to the other provisions of this Agreement.

Article 12
ROYALTIES

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

2. The term “royalties” as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

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, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7, or Article 14 of this Agreement shall apply.

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

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

Article 13
CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

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

3. Gains 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.

4. Gains derived by a resident of a Contracting State from the alienation of shares or comparable interests deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.

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

Article 14
INDEPENDENT PERSONAL SERVICES

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

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

Article 15
INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21 of this Agreement, 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 or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State, may be taxed in the Contracting State in which the enterprise which operates the ship or aircraft is a resident.

Article 16
DIRECTORS' FEES

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

Article 17
ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 7, 14, and 15 of this Agreement, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14, and 15 of this Agreement, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. Notwithstanding the preceding provisions of this Article, income derived by entertainers or sportsmen who are residents of a Contracting State from the activities exercised in the other Contracting State under a plan of cultural exchange between the Governments of both Contracting States shall be exempt from tax in that other State.

Article 18
PENSIONS

Pensions and other similar remuneration arising in a Contracting State and paid to a resident of the other Contracting State in consideration of past employment shall be taxable only in the first-mentioned State.

Article 19
GOVERNMENT SERVICE

1. (a) Salaries, wages and other similar remuneration paid by a Contracting State or a territorial-administrative unit or a local authority thereof to an individual in respect of services rendered to that State or unit or authority shall be taxable only in that State.

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

- (i) is a national of that State; or
- (ii) did not become a resident of that State solely for the purpose of rendering the services.

2. The provisions of Articles 15, 16, 17, and 18 of this Agreement shall apply to salaries, wages and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or territorial administrative unit or a local authority thereof.

Article 20
STUDENTS

1. Payments which a student, or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training, receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

2. Remuneration which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State derives from an employment which he exercises in the first-mentioned State for a period or periods not exceeding in the aggregate 183 days in the tax year concerned shall not be taxed in the first-mentioned State if the employment is directly related to his studies or apprenticeship carried out in the first mentioned State.

Article 21
PROFESSORS AND TEACHERS

1. A professor or teacher who visits one of the Contracting States for a period not exceeding two years reckoned 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 recognised research institute or other establishment for higher education in that Contracting State and who was immediately before that visit a resident of the other Contracting State shall be exempt from tax in the first mentioned Contracting State on any remuneration for such teaching or study.

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 22
OTHER INCOME

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

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6 of this Agreement, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein or performs in that other State independent personal services from a fixed base situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14 of this Agreement shall apply.

3. Notwithstanding the provisions of paragraphs 1 and 2, items of income derived by an individual who is a resident of a Contracting State from gambling and lotteries and arising in the other Contracting State may be taxed in that other State.

Article 23
CAPITAL

1. Capital represented by immovable property referred to in Article 6 of this Agreement, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.

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

3. Capital of an enterprise of a Contracting State represented by ships and aircraft operated in international traffic and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in that State.

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

Article 24
ELIMINATION OF DOUBLE TAXATION

1. In Georgia double taxation shall be eliminated as follows:

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

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

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

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

(b) Where in accordance with any provision of the Agreement income derived or capital owned by a resident of a Georgia is exempt from tax in Georgia, Georgia may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

2. In Hungary double taxation shall be eliminated as follows:

(a) Where a resident of Hungary derives income or owns capital which, in accordance with the provisions of this Agreement may be taxed in Georgia, Hungary shall, subject to the provisions of subparagraphs (b) and (c), exempt such income or capital from tax.

(b) Where a resident of Hungary derives items of income which, in accordance with the provisions of Article 10, may be taxed in Georgia, Hungary shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Georgia. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given which is attributable to such items of income derived from Georgia.

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

(d) The provisions of subparagraph (a) shall not apply to income derived or capital owned by a resident of Hungary where Georgia applies the provisions of this Agreement to exempt such income or capital from tax or applies the provisions of paragraph 2 of Article 10 to such income.

Article 25
NON-DISCRIMINATION

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

2. Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected.

3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

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

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

6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 26
MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

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

4. 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 27
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 Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 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 or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. 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 paragraphs 1 and 2 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 which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

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

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 limitations be construed to permit a Contracting State to decline to supply information solely 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 solely 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.

Article 28
MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

Nothing in this Agreement 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.

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

Article 7 of the MLI – Prevention of Treaty Abuse

(Principal purposes test provision)

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

Article 29
OTHER PROVISIONS

1. This Agreement shall not be interpreted to mean that a Contracting State is prevented from applying its domestic legal provisions on the prevention of tax evasion or tax avoidance.

If the foregoing provision results in double taxation, the competent authorities shall consult each other pursuant to Article 26 paragraph 3 on how to avoid double taxation.

2. Upon mutual agreement of the Contracting States, amendments and additions maybe introduced to this Agreement, arranged as separate Protocols and making integral parts of this Agreement. These amendments shall enter into force subject to the provisions of the Article 30 of this Agreement.

Article 30
ENTRY INTO FORCE

1. The Contracting Parties shall notify each other through diplomatic channels that their domestic requirements for the entry into force of this Agreement have been complied with.

2. This Agreement shall enter into force on the 30th day following the receipt of the latter of the notifications referred to in paragraph 1 and its provisions shall have effect in both Contracting States:

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

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

Article 31
TERMINATION

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after five years from the date of entry into force of the Agreement.

In such event, this Agreement shall cease to have effect in both Contracting States:

(a) with respect to taxes withheld at source, on income derived on or after 1

January of the calendar year next following that in which the notice is given;

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

IN WITNESS WHEREOF the undersigned, duly authorized thereto, have signed this Agreement.

Done in duplicate at..... this.....day of, in Georgian, Hungarian and English languages, each text being equally authentic. In case of divergence of interpretation the English text shall prevail.

For Georgia

For the Republic of San Marino

PROTOCOL

At the moment of signing the Agreement between the Government of Georgia and the Government of Hungary for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital the undersigned have agreed on the following provisions which shall form an integral part of the Agreement.

1. For the purposes of this Agreement the “place of effective management” is the place where the management of an enterprise and the executive officer or the group of senior officers of the enterprise governing the day-to-day work of the whole enterprise is settled for carrying on their activities.

Should the place of the management and the place of the day-to-day governing activity differ from each other the “place of the effective management” will be the place where the day-to-day governing activity is carried on.

2. It is understood that partnerships (betéti társaság, közkereseti társaság) established in Hungary are taxed in Hungary as corporations, and they fall within the definition of “company” and are residents in Hungary.

3. With respect of subparagraph e) of paragraph 1 Article 3 it is understood that in the case of Georgia, the term “company” means enterprise or any entity which exercises an economic activity.

4. With reference to Article 27:

It is understood that the Contracting States shall ensure the protection of personal data transferred according to the Agreement and their domestic law. With regard to personal data processing, the Contracting States shall follow the provisions of the Agreement concerning confidentiality and utilization of the exchange of information. They shall only transfer to each other personal data which are foreseeably relevant and suitable for the achievement of the purposes set out in Article 27, and they shall process the data received only for the period necessary to the implementation of the Agreement. The Contracting States shall ensure the supervision of the lawfulness of data processing through a separate authority in accordance with their domestic law. Furthermore, the data subject shall, in accordance with the provisions of the Agreement and the respective domestic law, have:

the right to request information about his/her personal data processed,

(i) the right to initiate the erasure of the data processed illegally and the rectification of data managed inaccurately, and

(ii) the right to legal remedy by an independent authority in case the rights related to the processing of personal data are infringed.

5. Present Agreement shall in no way prejudice any obligations deriving from Hungary’s membership in the European Union.

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

Done in duplicate at..... this.....day of, in Georgian, Hungarian and English languages, each text being equally authentic. In case of divergence of interpretation the English text shall prevail.

For Georgia

For the Republic of San Marino