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MEMORANDUM TO MR. BOLTON:

A preliminary examination has been made of the tax problems involved in the new paragraph 19 of the draft contract of service of the Managing Director dealing with benefits payable on death. United States tax experts are of the opinion that decisions of the courts make possible the assessment of any one or more of the following taxes on the death benefit:

1. United States income tax payable by the beneficiaries;
2. Belgian income tax assessed against the Managing Director and payable by his estate;
3. Belgian income tax payable by the beneficiaries;
4. United States estate tax payable by the estate;
5. Belgian estate tax payable by the estate.

The draft provides reimbursement for any Belgian income tax assessed against the Managing Director and payable by his estate. In accordance with the By-Laws, however, it does not provide reimbursement for any other taxes.

11. In the event that Gutt notifies the Fund, in writing, that amounts paid to him by the Fund are subject to taxation by the national government of the country of which he is a citizen or subject, the Fund shall pay Gutt an additional amount to defray such taxes.

(a) If Gutt serves the Fund during his entire taxable year, the additional amount shall be equal to the income taxes of such national government which would be payable by Gutt if his income from the Fund constituted the whole of his taxable income.

(b) In any taxable year in which Gutt serves the Fund only part of the year, his taxable income from other sources ~~such as~~ ^{for} wages, salary or other compensation for personal services shall be considered in determining the amount to be paid by the Fund. If his other taxable income of this type is earned at an annual rate equal to or less than the annual rate of his taxable income payable to him by the Fund, it is intended that he shall pay taxes on the amount of such other income actually received only at the rate which he would have paid if his other occupation had been carried on during the entire taxable year and he had had no other income. If his other taxable income of this type is earned at an annual rate greater than the annual rate of his taxable income payable to him by the Fund, it is intended that the Fund shall pay to him a pro rata share of the taxes which would be payable on his taxable income from the Fund if he had served the Fund for the entire taxable year and had had no other income.

(c) The details of the calculations to be made under (b) shall be worked out in a manner satisfactory to Gutt and to the Fund.

11. In the event that Gutt notifies the Fund, in writing, that amounts paid to him by the Fund are subject to taxation by the national government of the country of which he is a citizen or subject, the Fund shall pay to Gutt an additional amount to defray such taxes.

(a) If Gutt serves the Fund during his entire taxable year the additional amount shall be equal to the income taxes of such national government which would be payable by Gutt if his income from the Fund constituted the whole of his taxable income.

(b) If Gutt does not serve the Fund during his entire taxable year and the annual rate of taxable income payable to him by the Fund equals or exceeds the annual rate of his taxable income from wages, salary or other compensation for the rendition of personal services while not serving the Fund, the additional amount shall be equal to that part of the income tax of such national government on his taxable income from the Fund and from the rendition of personal services while not serving the Fund which remains after deducting from such tax a proportionate part of the tax which would have been payable on his income from the rendition of personal services which he would have received had he carried on his other occupation during the entire taxable year. The proportionate part of the tax shall be that part which the income from the rendition of personal services while not serving the Fund is of such income which would have been received had he carried on his other occupation during the entire taxable year.

(c) If Gutt does not serve the Fund during his entire taxable year and the annual rate of taxable income payable to him by the Fund is less than the annual rate of his taxable income from wages, salary or other compensation for the rendition of personal services while not serving the Fund, the additional amount shall be equal to a proportionate part of the income tax of such national government which would be payable on his taxable income from the Fund if he served the Fund for the entire taxable year. The proportionate part of the tax shall be that part of the tax which the time he served the Fund during his taxable year is of the entire year.