

No. 14496

**FRANCE
and
ROMANIA**

Convention for the avoidance of double taxation with respect to taxes on income and fortune. Signed at Bucharest on 27 September 1974

*Authentic texts: French and Romanian.
Registered by France on 29 December 1975.*

**FRANCE
et
ROUMANIE**

Convention tendant à éviter les doubles impositions en matière d'impôts sur le revenu et sur la fortune. Signée à Bucarest le 27 septembre 1974

*Textes authentiques : français et roumain.
Enregistrée par la France le 29 décembre 1975.*

[TRANSLATION—TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF ROMANIA FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND FORTUNE

The Government of the French Republic and the Government of the Socialist Republic of Romania, desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income and fortune and to promote and strengthen economic relations between the two countries, on the basis of respect for national sovereignty and independence, equality of rights, mutual benefit and non-interference in internal affairs, have agreed on the following provisions:

Article 1. PERSONAL SCOPE

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

Article 2. TAXES COVERED

1. This Convention shall apply to taxes on income and on fortune imposed on behalf of each Contracting State and its territorial administrative subdivisions or territorial authorities, irrespective of the manner in which they are levied.

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

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

(a) In the case of Romania:

1. The tax on income from wages or salaries, from literary, artistic and scientific works, from collaboration in publications and entertainment presentations, from the provision of expertise and from other sources,
2. The tax on the income of mixed companies established with the participation of Romanian economic organizations and foreign partners,
3. The tax on the income of non-resident individuals and bodies corporate,
4. The tax on income from the letting of buildings and land,
5. The tax on income from productive activities, trades and liberal professions and from non-State enterprises

(hereinafter referred to as "Romanian tax");

¹ Came into force on 27 September 1975, i.e., 30 days after the date of the last of the notifications (effected on 30 December 1974 and 27 August 1975) by which the Parties informed each other of the completion of their respective legal procedures, in accordance with article 30 (1).

(b) *In the case of France:*

1. The income tax,
2. The company tax, including all withholdings at source, advance collections (*précomptes*) and prepayments in respect of the above-mentioned taxes (hereinafter referred to as “French tax”).

4. The Convention shall also apply to any identical or substantially similar taxes which enter into force after the date of signature of this Convention. At the end of each year, the competent authorities of the Contracting States shall notify each other of any major changes in their respective taxation laws.

Article 3. GENERAL DEFINITIONS

1. In this Convention:

(a) The terms “a Contracting State” and “the other Contracting State” mean France or Romania, as the context requires; the term “Contracting States” means France and Romania.

(b) The term “person” means an individual, a company, a public authority or any other body of persons.

(c) The term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes.

(d) 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.

(e) The term “competent authority” means:

- in the case of France, the Minister of Economic Affairs and Finance or his authorized representative;
- in the case of Romania, the Minister of Finance or his authorized representative.

2. As regards the application of the Convention by a Contracting State, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the Convention.

Article 4. FISCAL DOMICILE

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, statutory headquarters, place of management or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, the case shall be determined in accordance with the following rules:

(a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the

Contracting State with which his personal and economic relations are closest (centre of vital interests);

- (b) If the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has a habitual abode;
- (c) If he has a habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- (d) If he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting 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, it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

Article 5. PERMANENT ESTABLISHMENT

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

2. The term “permanent establishment” shall include especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, quarry or other place of extraction of natural resources;
- (g) a construction or assembly project which exists for more than 12 months, or a building site which exists for more than 18 months.

3. The term “permanent establishment” shall not be deemed 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 sale, by the enterprise, of goods or merchandise belonging to it which have been exhibited at a trade fair or exposition, once the fair or exposition is over;
- (e) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;

(f) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character for the enterprise.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State—other than an agent of an independent status to whom paragraph 5 applies—shall be deemed to be a “permanent establishment” in the first-mentioned State if he has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise of the enterprise.

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

6. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other 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 from immovable property, including income from agriculture and forestry, may be taxed in the Contracting State in which such property is situated.

2. The term “immovable property” shall be defined in accordance with the taxation 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 professional services.

Article 7. BUSINESS PROFITS

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

2. Where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate

enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, whether in the State in which the permanent establishment is situated or elsewhere. Executive and general administrative expenses incurred in connexion with the permanent establishment shall be determined in the usual way and in a fair and reasonable manner.

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

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 Convention, the provisions of those articles shall not be affected by the provisions of this article.

Article 8. TRANSPORT ENTERPRISES

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

3. Profits from the operation of rail or road vehicles in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. The provisions of paragraphs 1 and 3 shall also apply to profits derived from participation in a group, in a joint operating arrangement or in an international operating organization.

Article 9. ASSOCIATED ENTERPRISES

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, 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.

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 be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the dividends if the person receiving the dividends is the effective recipient.

The competent authorities shall determine by mutual agreement the procedures for applying this paragraph.

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

3. (a) 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 subject to the same tax régime as income from shares under the taxation law of the State of which the company making the distribution is a resident.

(b) Sums refunded from advance collections referred to in paragraph 5 and relating to dividends paid by the company making the distribution shall also be regarded as dividends paid by a company which is a resident of France.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of article 7 shall apply.

5. Where tax is collected in advance on dividends distributed by a company which is a resident of France to a resident of Romania, the recipient of such dividends shall be entitled to a refund of such tax, less the amount of tax deductible at the source—appropriate to the amount of the sums refunded—which has been levied in accordance with domestic legislation and with paragraph 2 of this article, as appropriate.

6. Where a company which is a resident of a Contracting State has a permanent establishment in the other Contracting State, the profits of that permanent establishment may, after payment of the tax on profits, be subject to a tax not exceeding 10 per cent in accordance with the law of that other State.

Article 11. INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that State, but if the person who receives the interest is the effective recipient, the tax so charged shall not exceed 10 per cent of the amount of the interest.

The competent authorities shall determine by mutual agreement the procedures for applying this paragraph.

3. Notwithstanding the provisions of paragraph 2, interest paid on loans guaranteed, insured or financed directly or indirectly by a Contracting State or a public body of that State shall be exempt from tax in the Contracting State in which it arises.

4. The term "interest" as used in this article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, in particular income from government securities, bonds or debentures, including premiums and lottery prizes associated therewith.

5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the provisions of article 7 shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a territorial administrative subdivision, a territorial authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connexion with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

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

Article 12. ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may be taxed in the Contracting State in which they arise, and according to the law of that State, but if the person who receives the royalties is the effective recipient, the tax so charged shall not exceed 10 per cent of the amount of the royalties.

The competent authorities shall determine by mutual agreement the procedures for applying this paragraph.

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

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the provisions of article 7 shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a territorial administrative subdivision, a territorial authority or a resident of that 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 with which the right or property giving rise to the royalties is effectively connected, and such royalties are borne by such permanent establishment, such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, 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 recipient in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13. CAPITAL GAINS

1. Gains from the alienation of immovable property, as defined in article 6, paragraph 2, or from the alienation of shares or similar rights in a joint-ownership immovable-property company or a company whose business property is composed mainly of immovable property may be taxed in the Contracting State in which such immovable property is situated.

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 professional services, including such gains from the alienation of such a permanent establishment alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State. However, gains from the alienation of movable property of the kind referred to in article 23, paragraph 3, shall be taxable only in the Contracting State in which such movable property is taxable according to the said article.

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

Article 14. PROFESSIONAL AND INDEPENDENT SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services performed on his own account or other independent activities of a similar 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 Contracting 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. EMPLOYED PERSONS

1. Subject to the provisions of articles 16, 18 and 19, 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 18 months over a period of three consecutive years;
- (b) the remuneration is paid by, or on behalf of, a person 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 that person has in the other State.

3. Notwithstanding the preceding provisions of this article, remuneration in respect of an employment exercised aboard a ship, an aircraft, or a rail or road vehicle in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16. DIRECTORS' FEES

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

Article 17. ARTISTS AND ATHLETES

1. Notwithstanding the provisions of articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television artists and musicians, and by athletes from their personal activities as such may be taxed in the Contracting State in which those activities are exercised.

2. When income from activities exercised personally by a public entertainer or an athlete is attributed to a person other than the entertainer or athlete himself, it may, notwithstanding the provisions of articles 7, 14 and 15, be taxed in the

Contracting State in which the activities of the public entertainer or athlete are exercised.

This provision shall not apply if the public entertainer or athlete establishes that neither he nor persons related to or associated with him have a direct or indirect share in the profits of the person to whom the income is attributed.

Article 18. PENSIONS

1. Pensions, including social security pensions, and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph 1, pensions paid by, or out of funds created by, one of the Contracting States or a territorial administrative subdivision, territorial authority or public law corporation thereof in respect of past services rendered in the discharge of functions of a governmental nature shall be taxable only in that Contracting State.

Article 19. GOVERNMENTAL FUNCTIONS

1. Remuneration paid by, or out of funds created by, a Contracting State or a territorial administrative subdivision, territorial authority or public-law corporation thereof to any individual in respect of services rendered to that State, administrative subdivision, territorial authority or public-law corporation in the discharge of functions of a governmental nature may be taxed only in that State.

2. The provisions of articles 15, 16 and 18 shall apply to remuneration in respect of services rendered in connexion with any trade or business carried on by one of the Contracting States or a territorial administrative subdivision, territorial authority or public-law corporation thereof.

Article 20. STUDENTS, BUSINESS APPRENTICES AND TRAINEES

1. Payments which a student or business apprentice, including any person undergoing advanced training, who is or was formerly a resident of a Contracting State and who is present in the other Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxable in that other State, provided that such payments are made to him from sources outside that other State.

2. Persons referred to in paragraph 1 who take employment in the other Contracting State in order to obtain practical training related to their studies shall not be taxed in that other State in respect of the remuneration derived from that employment, provided that the duration of that employment does not exceed 183 days per calendar year.

3. Persons referred to in paragraph 1 who take employment in the other Contracting State in order to supplement the resources required for their maintenance shall not be taxed in that other State in respect of the remuneration derived from that employment.

Article 21. TEACHERS AND RESEARCH WORKERS

1. A teacher or a research worker who is a resident of a Contracting State and visits the other Contracting State for teaching or research purposes for a

period not exceeding two years shall be exempt from tax in that other State on the remuneration derived from such activities.

2. This article shall not apply to income from research work if such work is undertaken primarily in the interest of one or more specific persons.

Article 22. INCOME NOT EXPRESSLY MENTIONED

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing articles of this Convention shall be taxable only in that State.

Article 23. FORTUNE

1. Fortune represented by immovable property, as defined in article 6, paragraph 2, may be taxed in the Contracting State in which such property is situated.

2. Fortune represented by movable property forming part of the business property of a permanent establishment of an enterprise, or by movable property pertaining to a fixed base used for the performance of professional services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.

3. Ships, aircraft and rail and road vehicles operated in international traffic and movable property pertaining to their operation shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

Article 24. METHODS FOR ELIMINATION OF DOUBLE TAXATION

Double taxation shall be avoided in the following manner:

1. *In the case of Romania:*

French tax paid by a resident of Romania on income taxable in France under this Convention shall be deducted from the amount of the Romanian tax payable under Romanian tax law.

The deduction may not exceed the amount of the Romanian tax levied on such income.

2. *In the case of France:*

(a) Income other than that referred to in subparagraph (b) below shall be exempt from the French taxes referred to in article 2, paragraph 3 (b), where such income is taxable in Romania under this Convention.

(b) In the case of income of the kinds referred to in articles 10, 11, 12, 16 and 17, on which Romanian tax has been paid in accordance with the provisions of those articles, France shall grant to a resident of France receiving such income from a Romanian source a tax credit corresponding to the amount of the tax levied in Romania.

The said tax credit, which may not exceed the amount of the French tax levied on such income, shall be deductible from the taxes referred to in article 2, paragraph 3 (b), in whose tax bases the said income is included.

(c) Notwithstanding the provisions of subparagraphs (a) and (b), the French tax may be calculated on the basis of the income taxable in France under this Convention, at the rate corresponding to the total income taxable under French law.

Article 25. NON-DISCRIMINATION

1. The nationals of a Contracting State, whether or not they are residents of one of the Contracting States, shall not be subjected in the other 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 are or may be subjected.

2. The term “nationals” means:

(a) all individuals possessing the nationality of a Contracting State;

(b) all legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State.

3. Stateless persons who are residents of one of the Contracting States shall not be subjected in either State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation to which nationals of that State in the same circumstances are or may be subjected.

4. 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.

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 Contracting 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 that first-mentioned State are or may be subjected.

6. In this article the term “taxation” means taxes of every kind and description.

Article 26. MUTUAL AGREEMENT PROCEDURE

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

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve

the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention.

Such mutual agreement shall be applied irrespective of the time-limits established by the national laws of the Contracting States.

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

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a commission consisting of representatives of the competent authorities of the Contracting States.

5. The competent authorities of the Contracting States shall determine the procedures for applying this Convention.

Article 27. EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention in so far as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall be treated as a secret and may be disclosed only to those persons or authorities, including the courts, that are concerned with the assessment or collection of the taxes which are the subject of the Convention.

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

- (a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;
- (b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or information the disclosure of which would be contrary to public policy (*ordre public*).

Article 28. DIPLOMATIC AND CONSULAR OFFICIALS OF INTERNATIONAL ORGANIZATIONS

1. Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions and persons in their private service and members of consular posts under the rules of international law or under treaty provisions.

2. In so far as, by reason of the fiscal privileges of members of diplomatic missions and persons in their private service and members of consular posts under the rules of international law or under treaty provisions, income or fortune is not taxable in the receiving State, the right of taxation shall be reserved to the sending State.

3. For the purposes of the Convention, members of diplomatic missions and persons in their private service and members of consular posts of a Contracting State accredited to the other Contracting State or to a third State who are nationals of the sending State shall be deemed to be residents of the sending State if they are subject therein to the same liability with respect to taxes on income and fortune as residents of that State.

4. The Convention shall not apply to international organizations, to the organs or officials thereof or to members of diplomatic missions, to persons in their private service and to members of consular posts of a third State if they are present in the territory of a Contracting State and are not treated as residents of either Contracting State for the purposes of taxes on income and fortune.

Article 29. TERRITORIAL FIELD OF APPLICATION

The territorial field of application of this Convention shall be:

- (a) in the case of Romania, the territory of the Socialist Republic of Romania and those areas situated beyond Romanian territorial waters over which, under international law, Romania may exercise sovereign rights relating to the sea-bed or the subsoil thereof with a view to the exploration or exploitation of their natural resources, but only in so far as the person, property or activity to which the Convention applies relates to the exploration or exploitation of such resources;
- (b) in the case of France, the *départements* of the French Republic and those areas situated beyond the territorial waters adjacent to the said *départements* over which, under international law, France may exercise sovereign rights relating to the sea-bed or the subsoil thereof with a view to the exploration or exploitation of their natural resources, but only in so far as the person, property or activity to which the Convention applies relates to the exploration or exploitation of such resources.

Article 30. ENTRY INTO FORCE

1. Each of the Contracting States shall notify the other of the completion of the procedures required by its law for the entry into force of this Convention. The Convention shall enter into force 30 days after the date on which the last such notification is made.

2. The provisions of this Convention shall apply for the first time:

- (i) in respect of taxes payable by deduction at the source, to sums paid on or after the date of entry into force of the Convention;
- (ii) in respect of other taxes on income, to income earned during the calendar year in which the Convention entered into force or relating to the financial year ending in the course of that calendar year.

Article 31. TERMINATION

1. This Convention shall remain in force indefinitely. However, beginning in 1979, either Contracting State may denounce it by giving at least six months' notice through the diplomatic channel, the denunciation to take effect from the end of any calendar year.

2. In such event, the provisions of the Convention shall apply for the last time:

- (i) in respect of taxes payable by deduction at the source, to sums paid no later than 31 December of the calendar year for the end of which the notice of termination has been given;
- (ii) in respect of other taxes on income, to income earned during the calendar year for the end of which the notice of termination has been given, or relating to the financial year ending in the course of that calendar year.

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

DONE at Bucharest on 27 September 1974, in duplicate in the French and Romanian languages, both texts being equally authentic.

For the Government of the French Republic:

[Signed]

NORBERT SÉGARD

For the Government of the Socialist Republic of Romania:

[Signed]

GEORGHE RADULESCU
