

**No. 14548**

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**FEDERAL REPUBLIC OF GERMANY  
and  
ROMANIA**

**Convention for the avoidance of double taxation with  
respect to taxes on income and fortune (with protocol).  
Signed at Bonn on 29 June 1973**

*Authentic texts: German and Romanian.*

*Registered by the Federal Republic of Germany on 16 January 1976.*

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**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE  
et  
ROUMANIE**

**Convention tendant à éviter la double imposition en matière  
d'impôts sur le revenu et sur la fortune (avec protocole).  
Signée à Bonn le 29 juin 1973**

*Textes authentiques : allemand et roumain.*

*Enregistrée par la République fédérale d'Allemagne le 16 janvier 1976.*

## [TRANSLATION — TRADUCTION]

CONVENTION<sup>1</sup> BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE SOCIALIST REPUBLIC OF ROMANIA FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND FORTUNE

The Federal Republic of Germany and the Socialist Republic of Romania,  
Desiring to conclude a convention for the avoidance of double taxation with respect to taxes on income and fortune with a view to promoting their mutual economic relations,

Have agreed as follows:

*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 in the Contracting States in accordance with the legislative provisions in force, 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, as well as taxes on capital appreciation.

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

(a) in the Federal Republic of Germany:

- the income tax (*Einkommensteuer*), including the surcharge (*Ergänzungsabgabe*) thereon;
- the corporation tax (*Körperschaftsteuer*), including the surcharge (*Ergänzungsabgabe*) thereon;
- the tax on fortune (*Vermögensteuer*);
- the real property tax (*Grundsteuer*);
- the business tax (*Gewerbesteuer*);

(b) in the Socialist Republic of Romania:

- the tax on income from wages and salaries, from literary, artistic and scientific works, from collaboration in publication, from artistic performances, from expert services and from other sources;
- the tax on the income of mixed companies involving the participation of Romanian economic organizations and foreign partners;
- the tax on income from productive handicraft and professional activities and on income derived from non-State enterprises;

<sup>1</sup> Came into force on 1 September 1975, i.e., one month after the date of the exchange of the instruments of ratification, which took place at Bucharest on 1 August 1975, in accordance with article 24 (2).

- the tax on income from agriculture;
- taxes on buildings and urban landed property;
- taxes on means of transport.

4. The provisions of this Convention relating to the taxation of income or fortune shall apply *mutatis mutandis* to the business tax levied in the Federal Republic of Germany, which is computed on a basis other than income or fortune.

5. This Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes. At the end of each year, the competent authorities of the Contracting States shall, where necessary, notify each other of any changes which have been made in their respective taxation laws.

### Article 3. GENERAL DEFINITIONS

1. In this Convention, unless the context otherwise requires:

(a) The terms “a Contracting State” and “the other Contracting State” mean the Federal Republic of Germany or the Socialist Republic of Romania, as the context requires;

(b) The term “person” comprises an individual and a company;

(c) The term “company” means any body corporate, including a mixed company under Romanian law, 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 Federal Republic of Germany, the Federal Minister of Finance and, in the Socialist Republic of Romania, the Ministry of Finance.

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, 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 following rules shall apply:

(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.

(b) If the Contracting State with which his personal and economic relations are closest 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.

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

#### *Article 5. PERMANENT ESTABLISHMENT*

1. For the purposes of this Convention, the term “permanent establishment” means a fixed place of business 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 building site or construction or assembly project which exists for more than 12 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, and the merchandise itself, including the sale of such merchandise in connexion with a fair;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (c) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, for collecting information or for the purpose of advertising, for the enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of scientific research, for the supply of information 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 for 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 may be taxed in the Contracting State in which such property is situated.

2. The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property 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 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 including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

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 referred to in other articles of this Convention, then the provisions of those articles shall not be affected by the provisions of this article.

*Article 8.* SHIPPING, INLAND WATERWAYS TRANSPORT  
AND AIR TRANSPORT

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. Profits from the operation of boats engaged in inland waterways transport shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

3. The provisions of paragraphs 1 and 2 shall apply *mutatis mutandis* in respect of participations in pools, in a joint business or in an international operating agency of any kind by shipping or air transport enterprises.

*Article 9.* 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:

(a) 10 per cent of the gross amount of the dividends if the recipient is a company (excluding partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;

(b) in all other cases, 15 per cent of the gross amount of the dividends.

3. So long as in one Contracting State the rate of tax on the profits of a company is lower in the case of distributed profits than in the case of undistributed profits and the difference is 20 per cent or more, the tax levied on dividends in that State may, notwithstanding the provisions of paragraph 2, amount to 25.75 per cent of the gross amount of the dividends if such dividends are derived from a company which is a resident of that Contracting State and are received by a company which is a resident of the other Contracting State and which itself or together with other persons controlling it or being under common control with it owns, directly or indirectly, at least 25 per cent of the voting shares of the company which is a resident of the first-mentioned State.

4. The term "dividends" as used in this article means income from shares, *jouissance* rights or *jouissance* shares, mining shares, shares in profits or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident, including income derived from participation in a business by a sleeping partner within the meaning of the law of the Federal Republic of Germany, income from bonds and loans carrying a right to participate in profits, and distributions on certificates of an investment-trust.

5. The provisions of paragraphs 1 and 3 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.

6. Where a company which is 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 to persons who are not residents of that other State, or subject to the company's undistributed profits to a tax on 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 10. 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 the tax so charged shall not exceed 10 per cent of the amount of the interest.

3. The term "interest" as used in this article means income from government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

4. 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.

5. 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 in connexion with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest 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 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 11. ROYALTIES*

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only 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 the tax so charged shall not exceed 10 per cent of the amount of the royalties.

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 cinematograph 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 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 in connexion with which the contract under which the royalties are payable was concluded, and such royalties are borne by such permanent establishment, then 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 12.* INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services 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 13.* SALARIES, WAGES AND OTHER SIMILAR REMUNERATION

1. Subject to the provisions of articles 14 and 16, 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 the calendar 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 in respect of an employment exercised aboard a ship or aircraft in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

*Article 14. 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 15. ARTISTS AND ATHLETES*

1. Notwithstanding the provisions of articles 12 and 13, 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 these activities are exercised.

2. Notwithstanding the provisions of paragraph 1, income derived from activities of the kind referred to in paragraph 1 by persons performing under cultural exchange programmes approved by the Contracting States shall be taxable only in the Contracting State of which such persons are residents.

*Article 16. PUBLIC FUNDS*

1. Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or a local authority thereof to any individual in respect of services rendered to that State or local authority in the discharge of functions of a governmental nature may be taxed in that State. However, this provision shall not apply if the remuneration is paid to an individual who is a permanent resident of the other State.

2. The provisions of articles 13 and 14 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 local authority thereof.

*Article 17. STUDENTS AND OTHER TRAINEES*

An individual who was a resident of a Contracting State immediately before visiting the other Contracting State and is temporarily present in that other State solely as a student at a university, college, school or other similar educational institution in that other State, or as a business apprentice (including in the case of the Federal Republic of Germany a *Volontär* or a *Praktikant*), or otherwise for the purpose of advanced training, shall, from the date of his first arrival in that other State in connexion with that visit, be exempt from tax in that other State:

- (a) on all remittances from abroad for the purpose of his maintenance, education or training, and
- (b) for a period not exceeding three years, on any remuneration not exceeding DM 6,000 or the equivalent in Romanian currency in any calendar year for personal services rendered in that other Contracting State with a view to supplementing the resources available to him for the purpose of his maintenance, education or training.

*Article 18. 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 and aircraft operated in international traffic and boats engaged in inland waterways transport, and movable property pertaining to the operation of such ships, aircraft and boats, 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 19.* ELIMINATION OF DOUBLE TAXATION

1. In the case of a resident of the Federal Republic of Germany, tax shall be determined as follows:

(a) Unless the provisions of subparagraph (b) apply, there shall be excluded from the basis upon which tax of the Federal Republic of Germany is imposed any item of income derived from sources in the Socialist Republic of Romania and any elements of fortune situated in the Socialist Republic of Romania which, according to this Convention, may be taxed in the Socialist Republic of Romania. The Federal Republic of Germany shall, however, retain the right to take into account in the determination of its rate of tax the items of income and elements of fortune so excluded. The first sentence shall apply to dividends only when they are paid by a company being a resident of the Socialist Republic of Romania to a joint-stock company being a resident of the Federal Republic of Germany which owns at least 25 per cent of the voting shares of the first-mentioned company. There shall also be excluded from the basis upon which tax of the Federal Republic of Germany is imposed any shareholdings whose dividends have been excluded from the said basis in accordance with the preceding sentence or, if paid, would be so excluded.

(b) The tax paid under the laws of the Socialist Republic of Romania and in accordance with this Convention on the following items of income derived from sources in the Socialist Republic of Romania shall, subject to the provisions of the taxation law of the Federal Republic of Germany relating to credit for foreign tax, be allowed as a credit against the tax imposed on the said items of income in the Federal Republic of Germany:

1. dividends within the meaning of article 9 to which subparagraph (a) does not apply;
2. interest within the meaning of article 10;
3. royalties within the meaning of article 11;
4. items of income within the meaning of article 14;
5. items of income within the meaning of article 15.

2. In the case of a resident of the Socialist Republic of Romania, tax shall be determined as follows:

Subject to the provisions of the taxation law of the Socialist Republic of Romania relating to credit for foreign tax, there shall be allowed as a credit against the tax imposed in the Socialist Republic of Romania on any item of income derived from the Federal Republic of Germany and any element of fortune situated in the Federal Republic of Germany the tax paid under the laws of the Federal Republic of Germany and in accordance with this Convention.

The credit shall not, however, exceed that part of the tax of the Socialist Republic of Romania, as computed before the credit is given, which is appropriate to such items of income.

*Article 20. 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.

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

4. The competent authorities of the Contracting States may communicate with each other directly for the purposes of the application of this Convention.

*Article 21. 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.

Any information so exchanged shall be treated as secret and shall not be disclosed to any person or authorities other than those concerned with the assessment and 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 trade process, or information the disclosure of which would be contrary to public policy.

*Article 22. DIPLOMATIC AND CONSULAR PRIVILEGES*

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

*Article 23.*

In conformity with the Quadripartite Agreement of 3 September 1971,<sup>1</sup> this Convention shall be extended also to Berlin (West) in accordance with established procedures.

<sup>1</sup> United Nations, *Treaty Series*, vol. 880, p. 115.

*Article 24.* ENTRY INTO FORCE

1. This Convention shall be ratified; the instruments of ratification shall be exchanged at Bucharest as soon as possible.

2. The Convention shall enter into force one month after the exchange of instruments of ratification and its provisions shall have effect:

- (a) in the Federal Republic of Germany, in respect of taxes levied for the assessment period 1972 and subsequent assessment periods;
- (b) in the Socialist Republic of Romania, in respect of taxes levied for the assessment period 1972 and subsequent assessment periods;
- (c) in both Contracting States, in respect of taxes withheld at the source on items of income paid after 31 December 1971.

*Article 25.* TERMINATION

This Convention shall remain in force indefinitely; however, either Contracting State may denounce the Convention, through the diplomatic channel, by giving notice of termination in writing to the other Contracting State on or before the thirtieth day of June of any calendar year after the expiry of the year following the year in which it enters into force; in such event, the Convention shall cease to have effect:

- (a) in respect of assessment periods beginning after the thirty-first day of December of the year in which notice of termination is given;
- (b) in respect of taxes withheld at the source on items of income paid after the thirty-first day of December of the year in which notice of termination is given.

DONE at Bonn on 29 June 1973 in two original copies, each in the German and Romanian languages, both texts being equally authentic.

For the Federal Republic of Germany:  
SCHEEL

For the Socialist Republic of Romania:  
PAȚAN

P R O T O C O L

The Federal Republic of Germany and the Socialist Republic of Romania,

On the occasion of the signing on 29 June 1973 at Bonn of the Convention between the two States for the avoidance of double taxation with respect to taxes on income and fortune, have agreed on the following provisions, which shall form an integral part of the Convention.

1. *Ad articles 2 and 19.* As regards the application of these articles in the Socialist Republic of Romania, the profits tax on Romanian State enterprises shall be deemed to be tax of the Socialist Republic of Romania within the meaning of these articles.

2. *Ad article 5.* A construction project being carried on in a Contracting State by an enterprise of the other Contracting State shall not be deemed to be a permanent establishment if its existence does not exceed 18 months. This rule shall apply only for the assessment period specified in article 24 and the following four assessment periods.

Press, radio and television facilities shall not be deemed to be permanent establishments if the information collected is transmitted exclusively to the enterprise which maintains such facilities.

3. *Ad article 7.* In the determination of the taxable profits of a permanent establishment, payments made by a construction enterprise to a subcontractor for work performed by the latter shall be deductible as business expenses according to the law of the State in which the permanent establishment is situated.

4. *Ad article 9.* It is agreed that the tax imposed in the Socialist Republic of Romania, under article 13 of Decree No. 425 of 2 November 1972, on shares in the profits of mixed companies transferred abroad shall be deemed to be a tax on dividends within the meaning of article 9, paragraph 4.

5. *Ad article 13.* In the case of a person who, in accordance with the provisions of article 4, is a resident of a Contracting State and who is temporarily present in the other Contracting State within the meaning of article 13, paragraph 2, in order to work on a construction project being carried on in that other State by an enterprise of the first-mentioned State as an employee of that enterprise, the time-limit specified in article 13, paragraph 2 (*a*), shall be replaced by the length of time for which he is temporarily present, provided that the latter does not exceed the length of time for which, according to the provision of the Final Protocol relating to article 5, the construction project may exist without being deemed to be a permanent establishment.

This rule shall apply only for the assessment period specified in article 24 and the following four assessment periods.

6. *Ad article 19.* The provisions of article 19, paragraph 1 (*a*), of the Convention shall apply only when the permanent establishment or the company in which there is a shareholding derives its income exclusively or almost exclusively from the following activities carried on in the Socialist Republic of Romania: the manufacture or sale of goods or merchandise, technical services or banking or insurance activities. Otherwise, the provisions of article 19, paragraph 1 (*b*), shall apply; as regards the taxation of fortune, the tax levied in the Socialist Republic of Romania on elements of fortune situated in the Socialist Republic of Romania shall be allowed as a credit against the tax levied in the Federal Republic of Germany in accordance with the provisions of the taxation law of the Federal Republic of Germany relating to credit for foreign tax.

7. *Ad article 20.* The competent authorities of the Contracting States shall notify each other on request of any material changes in their tax laws and, in the event of substantial changes, shall consult together with a view to determining whether amendments to the Convention are desirable.

For the Federal Republic of Germany:  
SCHEEL

For the Socialist Republic of Romania:  
PĂȚAN