

No. 16668

**DENMARK
and
ROMANIA**

**Convention for the avoidance of double taxation with
respect to taxes on income and capital. Signed at
Copenhagen on 13 December 1976**

*Authentic texts: Romanian, Danish and English.
Registered by Denmark on 28 April 1978.*

**DANEMARK
et
ROUMANIE**

**Convention tendant à éviter les doubles impositions en
matière d'impôts sur le revenu et sur la fortune. Signée à
Copenhague le 13 décembre 1976**

*Textes authentiques : roumain, danois et anglais.
Enregistrée par le Danemark le 28 avril 1978.*

CONVENTION¹ BETWEEN THE KINGDOM OF DENMARK AND THE
SOCIALIST REPUBLIC OF ROMANIA FOR THE AVOIDANCE OF
DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME
AND CAPITAL

The Governments of the Kingdom of Denmark and the Socialist Republic of Romania,

Desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income and capital and to promote and strengthen the economic relations between the two countries on the basis of national sovereignty and respect of independence, equality in rights, reciprocal advantage and non-interference in domestic matters,

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 capital imposed on behalf of each Contracting State or of its administrative subdivisions 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, as well as taxes on capital appreciation.

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

a) In the case of Romania:

- Taxes on the income from wages or salaries, literature, arts or scientific works, as well as income deriving from collaboration to publications, shows, examinations and from other such sources (*impozitul pe veniturile din salarii, din lucrări de litere, artă și știință, din colaborări la publicații sau la spectacole, din expertize și din alte surse asemănătoare*);
- Taxes on incomes obtained in Romania by non-resident individuals and corporate bodies (*impozitul pe veniturile realizate din România de persoanele fizice și juridice nerezidente*);
- Taxes on profits of joint companies constituted in Romania with Romanian and foreign participation (*impozitul pe beneficiile societăților mixte constituite în România, cu participare română și străină*);
- Taxes on income deriving from productive activities such as trade, free professions, as well as from enterprises other than State enterprises (*impozitul pe veniturile din activități lucrative (meserii, profesii libere), precum și din întreprinderi altele decât cele de stat*);

¹ Came into force on 28 December 1977, i.e., 30 days after the date of the last of the notes by which the Parties informed each other of its approval in conformity with their respective constitutional provisions, in accordance with article 31 (1).

- Taxes on income deriving from building hiring and land leasing (*impozitul pe veniturile din închirieri de clădiri și terenuri*);
 - Taxes on income realized from agricultural activities (*impozitul pe veniturile realizate din activități agricole*),
- (hereinafter referred to as “Romanian tax”).

b) In the case of Denmark:

1. The income tax to the State (*indkomstskatten til staten*);
 2. The municipal income tax (*den kommunale indkomstskat*);
 3. The income tax to the county municipalities (*den amtskommunale indkomstskat*);
 4. The old age pension contributions (*folkepensionsbidragene*);
 5. The seamen’s tax (*sømandsskatten*);
 6. The special income tax (*den særlige indkomstskat*);
 7. The church tax (*kirkeskatten*);
 8. The tax on dividends (*udbytteskatten*);
 9. The contribution to the sickness per diem fund (*bidrag til dagpengefonden*), and
 10. the capital tax to the State (*formueskatten til staten*),
- (hereinafter referred to as “Danish tax”).

4. The 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 notify to each other any substantial 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 term “Romania” means the territory of the Socialist Republic of Romania and the seabed and subsoil of the submarine areas beyond the territorial sea, over which Romania exercises sovereign rights, in accordance with international law, and with its own law, for the purpose of exploration for and exploitation of the natural resources of such areas;

b) The term “Denmark” means the Kingdom of Denmark, including any area within which, under the laws of Denmark and in accordance with international law, the sovereign rights of Denmark with respect to the exploration and exploitation of the natural resources of the Continental Shelf may be exercised. The term does not comprise the Faeroe Islands and Greenland;

c) The terms “a Contracting State” and “the other Contracting State” mean, as the context requires, Romania or Denmark;

d) The term “person” comprises an individual, a company and any other body of persons;

e) The term “company” means any body corporate including a joint company, which is incorporated under the Romanian law 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 Con-

tracting State and an enterprise carried on by a resident of the other Contracting State;

g) The term “competent authority” means:

- 1) In the case of Romania, the Minister of Finance or his authorized representative;
- 2) In the case of Denmark, the Minister of Inland Revenue, Customs and Excise or his authorized representative;

h) The term “nationals” means all individuals having the citizenship of a Contracting State and all legal persons or other entities created under the law in force in a Contracting State;

i) The term “international traffic” means any transport by a ship, aircraft, railway or road vehicle operated by an enterprise which has its place of effective management in a Contracting State, except when such transport is made solely between places in the other Contracting State.

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. But the term does not include any person who is liable to tax in that Contracting State in respect only of income from sources therein or capital situated in that State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then this 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 an habitual abode;
- c) If he has an 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, 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, oil well, 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;
- 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 goods or merchandise belonging to the enterprise displayed in the frame of an occasional temporary fair or exhibition which are sold after the closing of the said fair or exhibition;
- 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 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 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 including income from agriculture or 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 law of the Contracting State in which the property referred to 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 the 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 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, through a permanent establishment, 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 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. Insofar as it has been customary in a Contracting State to determine the profits 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 embodied 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, then 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, aircraft, railway 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.

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. The provisions of paragraph 1 shall also apply to profits derived from the participation by enterprises of the Contracting States in a pool, a joint business or in an international operating agency.

4. With respect to profits derived by the Danish, Norwegian and Swedish air transport consortium, known as the Scandinavian Airlines System (SAS), the provisions of paragraph 1 shall only apply to such part of the profits as corresponds to the shareholding in the consortium held by Det Danske Luftfartsselskab (DDL), the Danish partner of Scandinavian Airlines System (SAS).

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 in 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.

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:

- 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.

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

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 assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident. In this context, the profits distributed by Romanian joint companies to the capital subscribers are assimilated to dividends.

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 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 to persons who are not residents of that other State, or subject 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 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 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 that State itself, an administrative subdivision, a local 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 connection 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.

7. Notwithstanding paragraphs 1 and 2, interest beneficially derived by a Contracting State, or by an instrumentality of that Contracting State, not subject to tax by that Contracting State on its income, or a resident of such Contracting State with respect to indebtedness guaranteed, insured, or indirectly financed by that Contracting State or instrumentality thereof, shall be exempt from tax by the other Contracting State.

Article 12. COMMISSION

1. Commission 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 commission 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 4 per cent of the amount of the commission.

3. The term "commission" as used in this Article means a payment made to a broker, a general commission agent or to any other person assimilated to such a broker or agent by the taxation law of the Contracting State in which such payment arises.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the commission, being a resident of a Contracting State, has in the other Contracting State in which the commission arises a permanent establishment with which the activity giving rise to the commission is effectively connected. In such a case, the provisions of Article 7 shall apply.

5. Commission shall be deemed to arise in a Contracting State when the payer is that State itself, an administrative subdivision, a local authority or a resident of that State. Where, however, the person paying the commission, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the activities for which the payment is made was incurred, and such commission is borne by such permanent establishment, then such commission 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 commission paid, having regard to the activities 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 13. 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 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 payment of any kind received as consideration for the use of, or the right to use, any copyright of literary,

artistic or scientific work including copyright of motion picture films or films or tapes used for radio or television broadcasting, any patent, trademarks or other like property or rights, 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, an administrative subdivision, a local authority or a resident of that State. When, however, the person paying the royalties, whether he is a resident of the Contracting State or not, has in the other 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, 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 14. CAPITAL GAINS

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such 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 ships, aircraft, railway and road vehicles operated in international traffic and movable property pertaining to the operation of such ships and aircraft shall be taxable only in the Contracting State where, pursuant to the provisions of Article 8, profits from such activities are taxable.

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

Article 15. 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, for the purpose of performing his activities, he has a fixed

base regularly available to him in the other Contracting State or is present in that other Contracting State for a period or periods exceeding in the aggregate 183 days in the taxation year concerned. If he has such a fixed base or is present as aforesaid, the income may be taxed in the other Contracting State but only so much of it as is attributable to that fixed base or to his presence.

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 16. DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 17, 19, 20, 21 and 22, 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 exercised in the other Contracting State, the remunerations derived for this activity 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 taxation 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, aircraft, railway 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. Where a resident of Denmark derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the Scandinavian Airlines System (SAS) consortium, such remuneration shall be taxable only in Denmark.

Article 17. 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 18. ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 15 and 16, income derived by entertainers, such as theatre, motion-picture, radio or television artistes, 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. Where income in respect of the personal activities as such of an entertainer or athlete accrues not to that entertainer or athlete himself but to another person that income may, notwithstanding the provisions of Articles 7, 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. Income derived from such activities performed within the framework of cultural agreements concluded between the Contracting States, shall be taxable only in the sending State.

Article 19. PENSIONS, ANNUITIES AND SOCIAL SECURITY CONTRIBUTIONS

1. Pensions (other than pensions, the taxation of which is governed by the provisions of paragraph 2 of Article 20), and other similar remuneration paid to a resident of a Contracting State in consideration of past employment, and any annuity paid to such a resident shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph 1, payments made under the Public Social Security Scheme of a Contracting State may be taxed in that State.

3. The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money's worth.

Article 20. GOVERNMENT SERVICE

1. *a)* Remuneration, other than a pension, paid by a Contracting State or an administrative subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof shall be taxable only in that State.

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

- (i) Is a national of that State; or
- (ii) Did not become a resident of that State solely for the purpose of performing the services.

2. *a)* Any pension paid by, or out of funds created by, a Contracting State or an administrative subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof shall be taxable only in that State.

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

3. The provisions of Articles 16, 17 and 19 shall apply to remuneration and pensions in respect of services rendered in connection with any trade or business carried on by a Contracting State or an administrative subdivision or a local authority thereof.

Article 21. TEACHERS

1. A professor or teacher resident of a Contracting State who is engaged in teaching or research at a university or at any other governmentally authorized educational institution of the other Contracting State shall be taxable only in that first Contracting State on all remuneration received in respect of that activity for a period not exceeding two years from the beginning of their activity.

2. The provisions of paragraph 1 shall not apply to income from research, if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

Article 22. STUDENTS AND TRAINEES

1. Payments which a student, a business apprentice, or a trainee who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall be exempted from tax in the first-mentioned State, provided that such payments are made to him from sources outside that State.

2. The same exemption shall apply to income derived by the above-mentioned person from an employment which he exercises in that first-mentioned Contracting State in order to make necessary supplements to his means for maintenance, education, training, for a period limited to five years from his arrival in that State.

Article 23. OTHER INCOME

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

Article 24. TAXATION OF CAPITAL

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

2. Capital 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, railway and road vehicles operated in international traffic, and movable property pertaining to the operation of such means of transport, shall be taxable only in the State which according to Article 8 has the right to tax profits derived from such operations.

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

Article 25. ELIMINATION OF DOUBLE TAXATION

Double taxation shall be avoided as follows:

1. In the case of Romania, taxes paid in Denmark by Romanian residents on income derived or capital owned which in accordance with the provisions of this Convention may be taxed in Denmark shall be deducted from the taxes owed to the Romanian State.

Profits paid by the Romanian State enterprises to the State budget shall, in this Article, be deemed as a tax of Romania.

2. In the case of Denmark:

a) Subject to the provisions of subparagraph *c*, where a resident of Denmark derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Romania, Denmark shall allow:

(1) As a deduction from the tax on the income of that person, an amount equal to the income tax paid in Romania;

(2) As a deduction from the tax on the capital of that person, an amount equal to the capital tax paid in Romania.

b) The deduction in either case shall not, however, exceed that part of the income tax or capital tax, respectively, as computed before the deduction is

given, which is appropriate, as the case may be, to the income or the capital which may be taxed in Romania.

- c) Where a resident of Denmark derives income or owns capital which, in accordance with the provisions of this Convention, shall be taxable only in Romania, Denmark may include this income or capital in the tax base, but shall allow as a deduction from the income tax or capital tax that part of the income tax or capital tax, respectively, which is appropriate, as the case may be, to the income derived from or the capital owned in Romania.

Article 26. NON-DISCRIMINATION

1. The nationals of a Contracting State, whether or not 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 taxation of 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.

3. 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.

4. In this Article the term "taxation" means taxes of every kind and description.

Article 27. 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. This case must be presented within three years of the first notification of the action which gives rise to taxation not in accordance with the Convention.

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 purpose of reaching an agreement in view of application of the provisions of the hereby Convention. 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 shall establish methods of the application of this Convention and in particular the formalities which should be fulfilled by residents of a Contracting State in order to be granted in the other Contracting State tax exemptions or tax reductions of the incomes mentioned in Articles 10, 11, 12 and 13 derived in that other State.

Article 28. EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information of fiscal nature which they usually have, 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 insofar as the taxation thereunder is in accordance with this Convention.

Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those authorities whether judicial or administrative who are concerned with the assessment or collection of the taxes which are the subject of the Convention.

2. In no case shall the provision 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 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 29. DIPLOMATIC AND CONSULAR OFFICIALS

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

Article 30. THE EXTENSION OF TERRITORIAL APPLICABILITY OF THE CONVENTION

This Convention may be extended, either in its entirety or with any necessary modifications, to any part of the territory of Denmark which is specifically excluded from the application of the Convention and which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels.

Article 31. ENTRY INTO FORCE

1. This Convention shall be approved in accordance with the constitutional provisions in force in each of the two States and shall enter into force on the 30th day upon the exchange of the last of the two notes indicating that both Parties have complied with these provisions, it being understood that it shall apply for the first time:

- a) In the Socialist Republic of Romania on the taxes due for the taxable period in course, as well as on the taxes paid or retained since the 1st of January 1974;

b) In the Kingdom of Denmark:

- (1) In respect of income arising for the taxation year 1974 and subsequent years;
- (2) In respect of capital assessed for the calendar year 1974 and subsequent years.

Article 32. TERMINATION

The hereby Convention shall remain in force indefinitely. Either Contracting State may denounce the Convention up to the 30th June of each calendar year, starting from the 5th year following that in which the Convention entered into force, by giving notice of termination through diplomatic channels; in such event the application of this Convention shall cease to be effective:

- a) In respect of income arising for the taxation year next following that in which the notice of termination is given, and subsequent years;
- b) In respect of capital assessed for the calendar year next following that in which notice of termination is given, and subsequent years.

IN WITNESS WHEREOF the undersigned, authorized in good and due form by their Governments, have signed the hereby Convention.

DRAWN in Copenhagen this 13th day of December 1976, in two original copies, each in the Romanian, Danish and English languages, the three texts having the same value. In the case there is any divergence of interpretation of the provisions of this Convention the English text shall prevail.

On behalf of the Government of the Kingdom of Denmark:

K. B. ANDERSEN

On behalf of the Government of the Socialistic Republic
of Romania:

G. PLOEȘTEANU
