

No. 18294

**BELGIUM
and
ROMANIA**

**Convention for the avoidance of double taxation with
respect to taxes on income and on capital. Signed at
Bucharest on 14 October 1976**

Authentic texts: French, Dutch and Romanian.

Registered by Belgium on 20 February 1980.

**BELGIQUE
et
ROUMANIE**

**Convention tendant à éviter la double imposition en matière
d'impôts sur le revenu et sur la fortune. Signée à
Bucarest le 14 octobre 1976**

Textes authentiques : français, néerlandais et roumain.

Enregistrée par la Belgique le 20 février 1980.

[TRANSLATION — TRADUCTION]

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

The Government of the Kingdom of Belgium 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 on capital,

Bearing in mind the favourable development of economic relations between their countries,

Desiring to give further impetus to the expansion and diversification of their economic relations on a lasting and reciprocally advantageous basis,

Attaching particular importance to implementation of the Final Act of the Conference on Security and Co-operation in Europe,² with respect to economic, industrial and technical co-operation,

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 territorial 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 items of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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

(1) In the case of Belgium:

- (a) The tax on individuals;
- (b) The company tax;
- (c) The tax on bodies corporate;
- (d) The tax on non-residents,

¹ Came into force on 3 October 1978, i.e., the fifteenth day following the date of the exchange of the instruments of ratification, which took place at Brussels on 18 September 1978, in accordance with article 30 (2).

² *International Legal Materials*, vol. 14, 1975, p. 1292.

including deductions at source, surcharges on the said taxes and deductions, and the supplementary communal tax on individuals (hereinafter referred to as "Belgian tax");

(2) In the case of Romania:

- (a) The tax on wages, salaries and other remuneration;
 - (b) The tax on income from literary, artistic or scientific activities;
 - (c) The tax on income from collaboration in publications;
 - (d) The tax on income accruing in Romania to non-resident individuals or bodies corporate;
 - (e) The tax on profits of joint companies constituted with the participation of Romanian economic organizations and foreign partners;
 - (f) The tax on income from gainful activities, professional services and enterprises other than State enterprises;
 - (g) The tax on income from the letting of buildings and land;
 - (h) The tax on income from agriculture
- (hereinafter referred to as "Romanian tax").

4. The Convention shall apply also to any identical or substantially similar taxes which, after the date of signature of this Convention, are imposed in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of changes which have been made in their respective taxation laws.

Article 3. GENERAL DEFINITIONS

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

(1) (a) The term "Belgium", used in a geographical sense, means the territory of the Kingdom of Belgium, as well as any areas outside the territorial waters of Belgium within which, in accordance with international law and its own legislation, Belgium may exercise rights with regard to the sea-bed and subsoil and their natural resources;

(b) The term "Romania", used in a geographical sense, means the territory of the Socialist Republic of Romania, as well as any areas outside the territorial waters of Romania within which, in accordance with international law and its own legislation, Romania may exercise rights with regard to the sea-bed and subsoil and their natural resources;

(2) The terms "a Contracting State" and "the other Contracting State" mean Belgium or Romania, as the context requires;

(3) The term "person" comprises an individual, a company and any other body of persons;

(4) The term "company" means any body corporate—including a joint company constituted in accordance with Romanian law—and any other entity which is treated as a body corporate for tax purposes;

(5) 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;

(6) The term "national" means:

- (a) Any individual possessing the nationality of a Contracting State;
- (b) Any body corporate, partnership or association constituted in accordance with the legislation in force in a Contracting State;

(7) The term "international traffic" means any transport by a ship, an aircraft or a rail or road vehicle operated by an enterprise which has its place of effective management in a Contracting State, except when the ship, aircraft or rail or road vehicle is operated solely between places in the other Contracting State;

(8) The term "competent authority" means:

- (a) In the case of Belgium, the Minister of Finance or his authorized representative;
- (b) 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 law of that State concerning 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 whose income or capital is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. However, this term does not include persons who are liable to tax therein in respect only of income from sources in that State or of capital possessed therein.

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

- (1) 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 closer (centre of vital interests);
- (2) If the Contracting State in which he has his centre of vital interests cannot be determined, or if he does not have 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) 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;
- (4) If he is a national of both Contracting States or of neither of them, the competent authority 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 he shall be deemed to be a resident of the Contracting State in which his 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” includes especially:

- (1) A place of management;
- (2) A branch;
- (3) An office;
- (4) A factory;
- (5) A workshop;
- (6) A mine, a quarry or any other place of extraction of natural resources;
- (7) 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:

- (1) The use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (2) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (3) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (4) The sale by the enterprise of goods or merchandise belonging to the enterprise which have been displayed at a trade fair or an exhibition, after the closing of that fair or exhibition;
- (5) The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information for the enterprise;
- (6) The maintenance for the enterprise of a fixed place of business solely for the purpose of advertising, for supplying information, for scientific research or for similar activities of a preparatory or auxiliary character.

4. A person—other than an agent of an independent status to whom paragraph 5 applies—acting in a Contracting State on behalf of an enterprise of the other Contracting State shall be deemed to be a permanent establishment of the enterprise 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—including an insurance company—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, provided that 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 in question is situated. The term shall in any case include property accessory to immovable property, livestock and equip-

ment 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 or other natural resources. Ships, boats and aircraft shall not be regarded as immovable property.

3. The provision 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 business 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 results 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 this article shall not preclude application of the provisions of those other articles in respect of the taxation of those items of income.

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, 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 from the participation in a pool, a joint business or an international operating agency.

Article 9. ASSOCIATED ENTERPRISES

Where:

- (1) An enterprise of a Contracting State participates directly or indirectly in the management, control or financing of an enterprise of the other Contracting State, or
- (2) The same persons participate directly or indirectly in the management, control or financing 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 laws of that State, but if the recipient is the beneficial owner of the dividends, the tax so charged shall not exceed 10 per cent of the gross amount of the aforesaid dividends.

The provisions of this paragraph shall not limit 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 which is subjected to the same treatment as income from shares by the taxation laws of the State of which the company making the distribution is a resident.

This term includes:

- (a) Income—even when paid in the form of interest—which is taxable as income from capital invested by the members of a company other than a joint stock company, which is a resident of Belgium;
- (b) Profits distributed to its members by a joint company established in accordance with Romanian law.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a

permanent establishment situated therein, or performs in that other State professional services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the dividends may be taxed in that other State according to its laws.

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 residents of the first-mentioned State, except in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11. INTEREST

1. Interest arising in a Contracting State and 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 laws of that State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 15 per cent of the amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest paid on loans, not represented by bearer bonds, granted or guaranteed by a Contracting State or a public agency of that State may be taxed only in the Contracting State of which the beneficial owner is a resident.

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, and, in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as all other income assimilated to or treated as income from moneys lent by the taxation laws of the State in which the income arises. However, for the purposes of this article, the term "interest" does not include penalty charges for late payment or interest treated as dividends in accordance with article 10, paragraph 3, subparagraph 2 (a).

5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State professional services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of article 7 or article 15, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, or a territorial 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.

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, 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 such case, the excess part of the interest shall remain taxable according to the laws 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 laws of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 10 per cent of the gross 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 cinematographic films and films or tapes used for television or radio broadcasting, any patent, trade mark, design or model, plan, or secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment which does not constitute immovable property within the meaning of article 6, 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, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State professional services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of article 7 or article 15, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, or a territorial administrative subdivision, a local 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 in connection with which the contract on the basis of which the royalties are paid 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 usual amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of paragraphs 1 and 2 shall apply only to the last-mentioned amount. In such case, the excess part of the royalties shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13. 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 laws of that State, but if the recipient is the beneficial owner of the commission, the tax so charged shall not exceed 5 per cent of the gross amount of the commission.

3. The term "commission" as used in this article means payment received by any person for services rendered as a middleman; this term does not include payment received as income from independent activities within the meaning of article 15 or income from dependent personal services within the meaning of article 16.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the commission, being a resident of a Contracting State, carries on business in the other Contracting State in which the commission arises, through a permanent establishment situated therein, or performs in that other State professional services from a fixed base situated therein, and the commission is effectively connected with such permanent establishment or fixed base. In such case, the provisions of article 7 or article 15, as the case may be, shall apply.

5. Commission shall be deemed to arise in a Contracting State when the payer is that State itself, or a territorial 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 contract on the basis of which the commission is paid was concluded, 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 services for which it is paid, exceeds the usual 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 such case, the excess part of the commission shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

7. Where a resident of a Contracting State who is the recipient of commission arising in the other Contracting State claims commission for a given taxation year or financial year, the tax which may be charged on such commission in the Contracting State in which it arises shall be determined as if the said resident had a permanent establishment in that State and as if the commission was taxable in accordance with article 7 in respect of profits attributable to such permanent establishment.

Article 14. CAPITAL GAINS

1. Gains from the alienation of immovable property, as defined in article 6, paragraph 2, 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 permanent establishment (alone or together with the whole enterprise) or of such fixed base, may be taxed in that other State.

However, gains from the alienation of ships, aircraft or rail or road vehicles operated in international traffic and movable property pertaining to the operation of such ships, aircraft or rail or road vehicles shall be taxable only in the Contracting State in which such property is taxable within the meaning of article 23, paragraph 3.

3. Gains from the alienation of any other property, including holdings in a joint stock company which do not form part of the business property of a permanent establishment of the kind referred to in the first paragraph of paragraph 2, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 15. PROFESSIONAL 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 except in the following circumstances, when such income may be taxed in the other Contracting State:

- (1) If he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in such case, only so much of the income as is attributable to activities performed from the said fixed base may be taxed in that other Contracting State;
- (2) If he performs his activities in the other Contracting State for a period or periods—including the duration of normal interruption of work—exceeding in the aggregate 183 days in the calendar year.

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 and 21, 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:

- (1) The remuneration is paid for activities performed in the other State for a period or periods—including the duration of normal interruption of work—not exceeding in the aggregate 183 days in the calendar year;
- (2) The remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- (3) The remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the provisions of paragraphs 1 and 2, remuneration in respect of an employment exercised aboard a ship, an aircraft or a rail or road vehicle operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 17. DIRECTORS' FEES

1. Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or similar body of

a joint stock company which is a resident of the other Contracting State may be taxed in that other State.

2. The remuneration which a person of the kind referred to in paragraph 1 derives from a company for the performance of regular managerial or technical activities may be taxed according to the provisions of article 16.

Article 18. ENTERTAINERS AND ATHLETES

1. Notwithstanding the provisions of articles 15 and 16, income derived by entertainers, such as theatre, motion picture, radio or television entertainers, 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. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues to a person other than the entertainer or athlete himself, it 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. Notwithstanding the provisions of paragraphs 1 and 2, income in respect of personal activities exercised by an entertainer or an athlete, in his capacity as such, who is a resident of a Contracting State shall be taxable only in that State, if the activities are exercised in the other Contracting State in connection with a cultural or sports exchange programme approved by the Contracting States.

Article 19. PENSIONS

1. Subject to the provisions of article 20, paragraph 2, 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. Annuities or pensions and other maintenance disbursements arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State.

Article 20. GOVERNMENT REMUNERATION AND PENSIONS

1. (a) Remuneration, other than a pension, paid by a Contracting State or a territorial administrative subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority 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 other State and the recipient of the remuneration is a resident of that State who:

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

2. (a) Any pension paid by, or out of funds created by, a Contracting State or a territorial administrative subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority 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 resident of, and a national of, that other State.

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

Article 21. TEACHERS, STUDENTS AND APPRENTICES

1. Any remuneration paid to professors and other teachers who are residents of a Contracting State and who are temporarily present in the other Contracting State for the purpose of teaching or carrying on scientific research at a university or other officially recognized educational institution in that State for a period not exceeding two years shall be taxable only in the first-mentioned State.

2. The provision of paragraph 1 shall not apply to remuneration received for research work if such work is undertaken primarily for the private benefit of a person or persons.

3. An individual who, immediately before visiting a Contracting State, is a resident of the other Contracting State and who is temporarily present in the first-mentioned Contracting State for a period not exceeding five years solely as a student at a university or other officially recognized educational institution in that first-mentioned State shall be exempt from tax in the first-mentioned State:

- (a) In respect of any payments which that person receives from sources in the other Contracting State for the purpose of his maintenance, education or training;
- (b) In respect of remuneration for personal services rendered in the first-mentioned Contracting State with a view to supplementing the resources available to him for the above-mentioned purpose, provided that such remuneration does not exceed 100,000 Belgian francs or the equivalent in Romanian currency per calendar year.

4. An individual who, immediately before visiting a Contracting State, is a resident of the other Contracting State and who is temporarily present in the first-mentioned Contracting State for a period not exceeding three years solely as an apprentice—which term includes also any person receiving vocational training—shall be exempt from tax in the first-mentioned State:

- (a) In respect of any payments which that person receives from the other Contracting State for the purpose of his maintenance, education or training;
- (b) In respect of remuneration for personal services rendered in the first-mentioned Contracting State, not exceeding 150,000 Belgian francs or the equivalent in Romanian currency per calendar year, provided that such services are connected with or in relation to that person's education or training.

Article 22. OTHER INCOME

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

2. The provision of paragraph 1 shall not apply if the recipient of the income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State professional services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of article 7 or article 15, as the case may be, shall apply.

Article 23. TAXATION OF CAPITAL

1. Capital 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. 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, or rail or road vehicles operated in international traffic, and movable property pertaining to the operation of such ships, aircraft or rail or road vehicles, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. All other items of capital of a resident of a Contracting State—including holdings in a joint stock company—shall be taxable only in that State.

Article 24. ELIMINATION OF DOUBLE TAXATION

1. In the case of Belgium, double taxation shall be avoided as follows:

- (1) Where a resident of Belgium derives income to which subparagraphs (2) and (3) of this paragraph do not apply or owns items of capital which may be taxed in Romania in accordance with the provisions of this Convention, Belgium shall exempt such income or items of capital from tax, but may, in calculating the amount of its taxes on the remaining income or capital of that resident, apply the rate of tax which would have been applicable if the exempted income or items of capital had not been so exempted.
- (2) In the case of dividends which may be taxed in accordance with the provisions of article 10, paragraph 2, and are not exempted from Belgian tax by virtue of subparagraph (3) of this paragraph, in the case of interest which may be taxed in accordance with the provisions of article 11, paragraph 2 or paragraph 7, and in the case of royalties which may be taxed in accordance with the provisions of article 12, paragraph 2 or paragraph 6, the fixed proportion of the foreign tax for which provision is made in Belgian law shall be allowed as a deduction, under the conditions and at the rate of tax laid down by that law, against the Belgian tax chargeable on the said income.
- (3) Where a company which is a resident of Belgium owns stock or shares in a company which is a resident of Romania and is subject to tax in that State on the profits of joint companies, dividends which are paid to it by the latter company and which may be taxed in Romania in accordance with the provisions of article 10, paragraph 2, shall be exempt from the company tax in Belgium, to the extent that exemption would have been accorded if the two companies had been residents of Belgium.
- (4) Where, in accordance with Belgian law, losses sustained by a Belgian enterprise in a permanent establishment situated in Romania have been effectively deducted from the profits of that enterprise for the purpose of its taxation in Belgium, the exemption provided for in subparagraph (1) shall not apply in Belgium to the profits for other tax periods which are attributable to such establishment, to the extent that such profits have also been exempted from tax in Romania by reason of their being offset by the said losses.

2. In the case of Romania, double taxation shall be avoided as follows:

- (1) The tax paid by a Romanian resident on income which may be taxed in Belgium in accordance with the provisions of this Convention shall be deducted from the amount of Romanian tax due under Romanian taxation law.
- (2) Profits paid by Romanian State enterprises to the State budget shall be deemed to be Romanian tax.

Article 25. NON-DISCRIMINATION

1. 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 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.

3. Except where the provisions of article 9, article 11, paragraph 6, or article 12, paragraph 6, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

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

5. Nothing in this article shall be construed as preventing Belgium:

- (a) From taxing at the rate determined by Belgian law the total profits of a Belgian permanent establishment of a company which is a resident of Romania or of an association which has its place of effective management in Romania, provided that the above-mentioned rate does not exceed the maximum rate applicable to the profits of companies which are residents of Belgium;
- (b) From imposing the movable-property deduction at source on dividends derived from a holding which is effectively connected with a permanent establishment or a fixed base maintained in Belgium by a company which is a resident of Romania or by an association which has its place of effective management in Romania and which is taxable as a body corporate in Belgium.

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 law of those States, address to the competent authority of the Contracting State of which he is a resident an application in writing stating the grounds for claiming a revision of such taxation. To be admissible, the said application must be submitted within two years from the first notification of the action resulting in taxation not in accordance with the Convention.

2. The competent authority referred to in paragraph 1 shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation 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 application of the Convention.

4. The competent authorities of the Contracting States shall consult together on administrative measures needed to carry out the provisions of the Convention, particularly on the proof to be furnished by residents of either State in order to benefit in the other State from the exemptions and reductions in tax provided for in this Convention.

Article 27. EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions 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 obtained shall be treated as secret and, apart from disclosure to the taxpayer or his authorized representative, it shall be disclosed only to persons or authorities involved in the assessment or collection of, or the determination of claims or appeals in relation to, the taxes which are the subject of this Convention, and also to judicial authorities for the purpose of criminal prosecution.

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

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

Article 28. ASSISTANCE IN COLLECTION

1. The Contracting States undertake to assist each other in the notification and collection of the taxes referred to in article 2, in respect of principal, increases, surcharges, interest, costs and non-criminal penalties.

2. At the request of the competent authority of a Contracting State, the competent authority of the other Contracting State shall, in accordance with the legal provi-

sions and regulations applicable to the notification and collection of the said taxes of the latter State, ensure notification and collection in respect of the tax claims referred to in paragraph 1 and outstanding in the first-mentioned State. Such tax claims shall not be considered as preferential claims in the requested State and that State shall not be obliged to apply any means of enforcement which are not authorized by the legal provisions and regulations of the requesting State.

3. The requests referred to in paragraph 2 shall be supported by an official copy of the instruments for enforcement, accompanied, where appropriate, by an official copy of any final administrative or judicial decisions.

4. With regard to tax claims which are open to appeal, the competent authority of a Contracting State may, in order to safeguard its rights, request the competent authority of the other Contracting State to take the protective measures provided for in the legislation of that other State; the provisions of paragraphs 1 to 3 shall apply *mutatis mutandis* to such measures.

5. The second paragraph of article 27, paragraph 1, shall also apply to any information which, by virtue of this article, is supplied to the competent authority of the requested State.

Article 29. MISCELLANEOUS PROVISIONS

1. The provisions of this Convention shall not limit the taxation under Belgian law of a company which is a resident of Belgium in the event of the repurchase of its own stock or shares or in the event of the distribution of its assets.

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

3. This Convention shall not apply to international organizations, to organs or officials thereof or to persons who are members of a diplomatic mission or consular post of a third State, being present in a Contracting State and not treated in either Contracting State as residents in respect of taxes on income and on capital.

4. The competent authorities of the Contracting States shall communicate directly with each other regarding the application of this Convention.

Article 30. ENTRY INTO FORCE

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

2. This Convention shall enter into force on the fifteenth day following the date of the exchange of the instruments of ratification and shall apply:

- (a) To taxes due at source on income allocated or payable on or after 1 January of the year in which the instruments of ratification are exchanged;
- (b) To other taxes levied on income for tax periods ending on or after 31 December of the year in which the instruments of ratification are exchanged.

Article 31. TERMINATION

This Convention shall remain in force for an indefinite period. However, beginning with the fifth year following that of its entry into force, either Contracting State may, by giving at least six months' notice through the diplomatic channel, terminate it with effect from the end of a calendar year. In such event, the Convention shall cease to apply:

- (a) To taxes due at source on income allocated or payable on or after 1 January of the year immediately following that in which notice of termination is given;
- (b) To other taxes levied on income for tax periods beginning on or after 1 January of the year immediately following that in which notice of termination is given.

IN WITNESS WHEREOF the Plenipotentiaries of the two States have signed this Convention and affixed thereto their seals.

DONE at Bucharest on 14 October 1976, in duplicate in the French, Dutch and Romanian languages, the three texts being equally authentic. In case of any discrepancy among the texts, the French text shall prevail.

For the Government
of the Kingdom of Belgium:

[Signed]

RENAAT VAN ELSLANDE
Minister for Foreign Affairs

For the Government
of the Socialist Republic of Romania:

[Signed]

FLOREA DUMITRESCU
Minister of Finance
