

**CONVENTION BETWEEN  
THE SOCIALIST REPUBLIC OF ROMANIA AND  
THE ITALIAN REPUBLIC  
FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON  
INCOME AND CAPITAL AND THE PREVENTION OF FISCAL EVASION<sup>1</sup>.**

The Government of the Socialist Republic of Romania and the Government of the Italian Republic, desiring to promote and intensify the economic relations between the two countries, on the basis of respect for national sovereignty and independence, equal rights, mutual advantages and non-interference in internal affairs, have agreed to conclude a Convention for the avoidance of double taxation with respect to taxes on income and capital and the prevention of fiscal evasion of which the provisions are the following:

*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 its political or 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 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, 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 this Convention shall apply are the following:
  - a) in the case of Romania:
    - (1) the tax on wages and salaries, and income from literary, artistic or scientific works, as well as income from collaboration on publications or from artistic performances, from the giving of expert advice and from other similar sources;
    - (2) the tax on income realised in Romania by non-resident individuals and legal entities;
    - (3) the tax on profits of mixed companies in which Romanian economic organisations and foreign partners participate and the tax on representations of foreign commercial firms and economic organisations;
    - (4) the tax on income from productive (artisan and professional) activities as well as from enterprises other than State-owned enterprises;
    - (5) the tax on income from the leasing of buildings and land;
    - (6) the tax on profits from agricultural activities; (hereinafter referred to as "Romanian tax").

---

<sup>1</sup> Date of Conclusion: January 14, 1977. Entry into Force: According to Article 31 of this Convention it entered into force on February 6, 1979. The provisions of this Convention apply as regards income and capital for any taxable year beginning on or after January 1, 1979.

b) in the case of Italy:

(1) the individual income tax;

(2) the tax on the income of legal entities; and

(3) the local income tax, even if withheld at the source; (hereinafter referred to as "Italian tax").

4. The Convention shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Convention in addition to, or in place of the taxes referred to in paragraph 3. The competent authorities of the Contracting States shall notify each other of 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 terms "a Contracting State" and "the other Contracting State" mean Romania or Italy, as the context requires;

b) the term "person" comprises an individual, a company and any other body of persons;

c) the term "company" means any legal entity including mixed companies organised under Romanian law or any other entity which is treated as a legal entity for tax purposes;

d) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

e) the term "international traffic" shall be understood to mean any transport activity by means of ship, aircraft, rail or road vehicle operated by an enterprise which has its place of effective management in a Contracting State except where the ship, aircraft, rail or road vehicle is operated solely between places in the other Contracting State;

f) the term "nationals" means:

(1) individuals possessing the citizenship (nationality) of a Contracting State;

(2) legal entities, partnerships and associations constituted under the laws in force in one of the Contracting States;

g) the term "competent authority" means:

(1) in Romania: The Minister of Finance or his authorised representative;

(2) in Italy: The Ministry of Finance.

2. As regards the application of this Convention by a Contracting State, any terms 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 this 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 laws 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. However, this term shall not include any individual who is liable to tax in that State only in respect of income which he derives from sources therein or in respect of capital which he possesses in that State.

2. Where, by reason of the provisions of paragraph 1, an individual is a resident of both Contracting States, then his status 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 closer (centre of vital interests);

b) if the Contracting State in which that person has his closest economic relations 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 that person 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 that person 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 deemed to be a resident of both Contracting States, it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated. This provision shall also apply to partnerships or bodies of persons assimilated thereto, set up and organised under the laws of a Contracting State.

#### Article 5 - *Permanent establishment*

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

2. The term "permanent establishment" shall include especially:

a) a place of management;

b) a branch;

c) an office;

d) a factory;

e) a workshop;

f) a mine, quarry or any other place of extraction of natural resources;

g) a building site or construction or assembly project which exists for more than twelve 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 which is made pursuant to a sales contract 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 maintenance of a stock of goods or merchandise belonging to the enterprise which is exhibited at a trade fair or exhibition, and which is sold by the enterprise at the end of such 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 the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character for the enterprise.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State -- other than an agent of an independent status to whom paragraph 5 applies -- shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise 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 agricultural and forestry activities 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 laws of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agricultural and forestry, as well as rights to which the provisions of general law respecting landed property apply. Usufruct of immovable property, as well as rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources shall also be deemed to be "immovable property". Ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, leasing, 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 any enterprise as well as 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, subject to the provisions of paragraph 3, 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 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 to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

#### *Article 8 - International transport*

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

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

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

4. The provisions of paragraphs 1 and 3 shall likewise apply to the profits derived from participation in a pool, a joint business or an international operating agency.

#### Article 9 - *Associated enterprises*

Where:

a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, 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 if the recipient is the beneficial owner of the dividends, the tax so charged shall not exceed 10 percent of the gross amount of the dividends. The competent authorities of the Contracting State shall settle the method of application of this limitation by mutual agreement. 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 and "jouissance" rights, mining shares, founders' shares or other rights not being debt-claims, participating the profits, as well as income from other corporate rights, including profits distributed by mixed companies, which are subject to the same tax treatment as income from shares under the tax law of the State of which the company making the distribution is a resident.

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 commercial or industrial activities through a permanent establishment situated in the other Contracting State of which the company paying the dividends is a resident or performs professional services through a fixed base situated therein and if the holding by virtue of which the dividends are paid is effectively connected therewith. In that case, the dividends may be taxed in the other Contracting State in accordance with its law.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other Contracting State may not impose any tax on the dividends paid by the company unless such dividends are paid to a resident of that other State, or if the holding by virtue of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State; neither may it subject the undistributed profits of such company to a tax on undistributed profits even where such dividends or undistributed profits consist wholly or partly of profits or income derived from that other State.

#### Article 11 - *Interest*

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

2. However, such interest may be taxed in the Contracting State in which it arises, and according to the laws of that State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 10 percent of the amount of interest. The competent authorities of the Contracting States shall settle the method of application of this limitation by mutual agreement.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be exempt from tax in that State, if:

a) the payer of the interest is the government of that State or a local organisation thereof; or

b) the interest is paid to the government of the other Contracting State or a local authority thereof or to a body or an agency (including financial institutions) which is wholly owned by that Contracting State or a local authority thereof; or

c) the interest is paid to other bodies or agencies (including financial institutions) dependent for their funds on the same (above-mentioned entities) by virtue of agreements concluded between the Governments of the Contracting States.

4. 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 from debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation laws of the Contracting State in which the income arises.

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 in the other Contracting State in which the interest arises, commercial or industrial activities through a permanent establishment situated therein, or performs professional services through a fixed base situated therein with which the debt-claim from which the interest arises is effectively connected. In that case, the interest may be taxed in that other Contracting State in accordance with its law.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative subdivision, a local authority, or a resident of that State. Where, however, the person paying the interest, whether or not he is a resident of a Contracting State, 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 a Contracting State in which the permanent establishment is situated.

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

## Article 12 - *Royalties*

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

2. However, such royalties may be taxed in the Contracting State in which they arise, and according to the law of that State, but if the recipient is the effective beneficial owner thereof, the tax so charged shall not exceed 10 percent of the amount of the royalties. The competent authorities of the Contracting States shall settle the method of application of this limitation by mutual agreement.

3. The term "royalties" as used in this Article means payments of any kind received as consideration for the use of, or the right to use, copyright of literary, artistic or scientific work including cinematograph films and films for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment and for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraph 1 shall not apply if the recipient of the royalties, being a resident of a Contracting State, carries on in the other Contracting State in which the royalties arise, a commercial or industrial activities through a permanent establishment situated therein, or performs professional services through a fixed base situated therein with which the right or property giving rise to the royalties is effectively connected. In that case, the royalties may be taxed in the other Contracting State in accordance with its law.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether or not he is a resident of a Contracting State, has in a Contracting State a permanent establishment in connection with which the obligation to pay the royalties was incurred, and the royalties are borne by such permanent establishment, then the royalties shall be deemed to arise in the Contracting State in which that 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 reason why 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 in the last-mentioned amount. In that case, the excess part of the payments shall remain taxable in accordance with the law of each Contracting State, due regard being had to the other provisions of this Convention.

### Article 13 - *Commission fees*

1. Commission arising in one of the Contracting States and paid to a resident of the other Contracting State may be taxed in that other Contracting State.
2. However, such commission may also be taxed in the Contracting State in which it arises and according to the law of that Contracting State, but if the recipient is the effective beneficial owner thereof, the tax so charged shall not exceed 5 percent of the amount of the commission. The competent authorities of the Contracting States shall settle the method of application of this limitation by mutual agreement.
3. The term "commission" as used in this Article means payments made to any other person for services rendered by him as an agent; but it shall not include payments for independent personal services mentioned in Article 15 or dependent personal services mentioned in 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 in the other Contracting State in which the commission arises, commercial or industrial activities through a permanent establishment situated therein, or performs professional services through a fixed base situated therein with which the commission is effectively connected. In that case, the commission may be taxed in that other Contracting State in accordance with its law.
5. Commission shall be deemed to arise in one of the Contracting States when the payer is the Contracting State itself or a political or administrative subdivision thereof, a local authority or a resident of that Contracting State. Where, however, the person paying the commission whether he is a resident of one of the Contracting States or not, has in one of the Contracting States a permanent establishment in connection with which the obligation to pay the commission was incurred and the commission is borne by that permanent establishment, then the commission shall be deemed to arise in that Contracting State.
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 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 that other State. However, gains from the alienation of movable property of the kind referred to in paragraph 3 of Article 24, shall be taxable only in the Contracting State in which such movable property is taxable according to the said Article.

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

#### *Article 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, unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other Contracting State but only so much of it as is attributable to that fixed base.

2. The term "professional services" includes, especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

#### *Article 16 - Dependent personal services*

1. Subject to the provisions of Articles 17, 19, and 20 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 of this Article, 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 fiscal year concerned;
- 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 or rail or road vehicle in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

#### *Article 17 - Directors' fees and attendances fees*

Participations in profits, attendance 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 the supervisory board of a company which is a resident of the other Contracting State may be taxed in that other State.

### Article 18 - *Artists and athletes*

1. Notwithstanding the provisions of Articles 15 and 16, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, as well as by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities arise.
2. Income derived by public entertainers or athletes, being resident in a Contracting State, from their activities exercised in the other Contracting State pursuant to a cultural exchange programme agreed upon between the two Contracting States may not be taxed in that other Contracting State.
3. Where income in respect of personal activities as such of an entertainer or athlete accrues not to that entertainer or athlete but to another person, that income may, notwithstanding the provisions of Articles 7, 15 and 16, be taxed in the Contracting State in which such activities are exercised.

### Article 19 - *Pensions*

Notwithstanding the provisions of paragraph 2 of Article 20, pensions and other similar remunerations paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

### Article 20 - *Governmental functions*

1. a) Remuneration, other than a pension, paid by a Contracting State or a political or administrative subdivision or local authority thereof to an individual in respect of services rendered to that Contracting State or subdivision or local organization 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 of the remuneration is a resident of that other Contracting State who:
  - (i) is a national of that other 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 a political or administrative subdivision or a local authority thereof to an individual in respect of services rendered to that Contracting State or subdivision or local authority thereof, shall be taxable only in that Contracting State.  
  
b) However, such pension shall be taxable only in the other Contracting State if the beneficiary is a national of and a resident 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 any trade or business carried on by a Contracting State or a political or administrative subdivision or a local authority thereof.

#### *Article 21 - Professors, teachers and research workers*

Remuneration derived by a professor or any other member of the teaching profession who is a resident of a Contracting State, and make a temporary visit to the other Contracting State for the purpose of teaching or research, for a period of time not exceeding 2 years, at a university or any other non-profit making educational or research institution, shall be taxable only in the first-mentioned State.

#### *Article 22 - Students and trainees*

1. Payments received for the purpose of his maintenance, education or professional training by a student or trainee, who is or was formerly a resident of a Contracting State, and who is present in the other Contracting State solely for the purpose of his education or the completion of his professional training, shall not be taxable in the other State provided that the payments are made to him from sources outside that other Contracting State.

2. Payments received as remuneration for dependent activities by a student or trainee who is or was formerly a resident of a Contracting State which activities are not performed on a full time basis or are performed on an occasional basis in the other Contracting State for a period of time which would reasonably allow such activities to achieve the purpose mentioned in paragraph 1, shall not be taxable in that other State.

#### *Article 23 - Other income*

1. Items of income of a resident of a Contracting State, wherever they arise, which are not dealt with in the preceding Articles of this Convention shall be taxable only in that State.

2. The provisions 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 a case, the items of income shall be taxable in the other Contracting State in accordance with its laws.

#### *Article 24 - 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 and rail and road vehicles operated in international traffic and movable property pertaining to the operation of such ships, aircraft and rail and 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 shall be taxable only in that State.

#### *Article 25 - Methods for the elimination of double taxation*

1. It is understood that double taxation shall be avoided in accordance with the following paragraphs in this Article.
2. Where a resident of Romania derives items of income which may be taxed in Italy, Romania may, in calculating its own taxes specified in Article 2 of this Convention, include such items of income in its taxable base, unless a provision of this Convention expressly provides otherwise. In such a case, the tax paid in Italy shall be credited against the tax due in Romania in accordance with its tax law. The amount so credited, however, may not exceed that part of the Romanian tax which is appropriate to such items of income. For the purposes of this paragraph, profits contributed by Romanian State enterprises to the State budget shall be deemed to be Romanian tax.
3. Where a resident of Italy derives items of income which may be taxed in Romania, Italy may, in calculating its own taxes specified in Article 2 of this Convention, include such items of income in its taxable base, unless a provision of this Convention expressly provides otherwise. In such a case, Italy shall credit against its tax so calculated, the Romanian income tax paid, but the amount so credited may not exceed that part of the Italian tax which, calculated in accordance with the ratio which the said income bears to the total income, is appropriate to that income. On the other hand, no credit shall be allowed in respect of income on which, at the request of the recipient of the income and in accordance with Italian law, final withholding taxes have been levied.

#### *Article 26 - Non-discrimination*

1. The nationals of a Contracting State, even when not resident in 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. In particular, the nationals of a Contracting State who are subject to tax in the other Contracting State shall be granted the same exemptions, deductions, allowances and reductions for taxation purposes on account of family responsibilities which under similar circumstances are granted to nationals of that other State.
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 residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family charges which it grants to its own residents.
3. With the exception of the cases referred to in Article 9, Article 11, paragraph 7 and Article 12, paragraph 6, interest, royalties and other remuneration which an enterprise of a Contracting State pays to a resident of the other Contracting State may be deducted in calculating the taxable profits as payments made to a resident of the first-mentioned State. Correspondingly, debts owned by an enterprise of a Contracting State to a resident of the other Contracting State may be deducted in calculating the taxable capital of such enterprise under the same conditions as debts owed to persons resident in 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 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.

5. 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 domestic laws of those States, present his case to the competent authorities of the Contracting State of which he is a resident, or, where his case relates to Article 26, paragraph 1, to the competent authorities of the Contracting State of which he is a national. Such case must be submitted within three years of the first notification of the action which results in taxation not in accordance with this Convention.

2. The competent authorities shall endeavour, if the objection appears to them to be justified and if they are not themselves able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authorities of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention. This mutual agreement procedure shall be applied notwithstanding the time limits laid down by the domestic law of the Contracting States.

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 the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

#### *Article 28 - Exchange of information*

1. The competent authorities of the Contracting States may exchange such information as is necessary for the carrying out of the provisions of this Convention or of the domestic laws of the Contracting States relating to the taxes referred to in this Convention, to the extent that the taxation provided under such laws is not contrary to the provisions of the Convention, as well as to prevent tax evasion. The exchange of information shall not be limited by Article 1. Any information received from a Contracting States shall be treated as secret, in the same way as information obtained under the domestic law of that State and shall only be disclosed to persons and authorities (including judicial and administrative authorities) concerned with the assessment and collection of, or proceedings or prosecutions relating to the taxes which are subject to the Convention. The above-mentioned persons and authorities shall use this information only for these purposes. Such persons or authorities may use such information for public hearings and court proceedings.

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

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

#### *Article 29 - Diplomatic and consular officials*

The provisions of this Convention shall not affect the fiscal privileges of diplomatic and consular officials under the general rules of international law or of special agreements.

#### *Article 30 - Refund procedure*

1. Taxes withheld at the source in either Contracting State shall, at the request of the taxpayer or the State in which he is a resident, be refunded to the extent that the right to levy such taxes is limited to this Convention.
2. Requests for refunds shall be submitted within the time limits laid down in the law of the Contracting State obliged to make such refund and must contain an official certificate issued by the Contracting State in which the taxpayer is resident stating that the conditions for claiming the reliefs under this Convention have been fulfilled.
3. The competent authorities of the Contracting States shall settle by mutual agreement in accordance with Article 27 the manner in which this Article shall be applied.

#### *Article 31 - Entry into force*

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Rome as soon as possible.
2. This Convention shall enter into force upon the exchange of the instruments of ratification and its provisions shall apply as respects income realised in the taxable year beginning on or after the first day of January of the calendar year in which this Convention enters into force.

*Article 32 - Termination*

This Convention shall remain in force until denounced by the one of the Contracting States. Either Contracting State may denounce the Convention, through diplomatic channels, beginning after the expiry of five years from the date of its entry into force, by giving written notice, six months before the end of any calendar year. In such case, the Convention shall apply for the last time:

a) in the case of taxes withheld at the source, as respects income paid not later than December 31 of the year in which notice of termination is given;

b) in the case of other taxes in the fiscal year which ends not later than December 31 of that year.

In witness whereof, the undersigned, being duly authorised thereto by their respective Governments have signed this Convention.

Done at Bucharest, in duplicate in the Romanian and Italian languages, both texts being equally authentic, this fourteenth day of January 1977.

For the Government of the Socialist Republic of Romania:  
Florea Dumitrescu

For the Government of the Republic of Italy:  
Filippo Maria Pandolfi

## **PROTOCOL**

On the signing of the Convention concluded today between the Socialist Republic of Romania and the Italian Republic, for the avoidance of double taxation with respect to taxes on income and capital and for the prevention of fiscal evasion, the undersigned plenipotentiaries have agreed on the following supplementary provisions which shall constitute an integral part of the Convention:

It is agreed that:

- a) in connection with the provisions of Article 2, if a tax on capital is introduced in Romania and in Italy, the Convention shall also apply to that tax. In that case, the provisions of Article 25 shall also apply with respect to the avoidance of double taxation;
- b) the income referred to in Article 23 includes income derived from activities relating to quality and quantity control of goods, technical assistance and special professional services, as well as income derived from the carrying out of surveys or other services not expressly mentioned in the Convention;
- c) the expression "notwithstanding" the remedies provided by the domestic law" in Article 27, paragraph 1 shall be construed as meaning that the commencement of a mutual agreement procedure shall not replace the litigation procedure under domestic law, which domestic procedure must, in any case, first have been instituted, where the dispute concerns an application of the Italian taxes not imposed under the provisions of the Convention;
- d) the provisions of Article 30, paragraph 3 may be interpreted so that the competent authorities of the Contracting States may mutually agree upon a different procedure for the application of tax relief available under the Convention;
- e) notwithstanding the provisions of Article 31, paragraph 2, the provisions of Article 8 , paragraph 1 shall also apply with respect to income realised in a taxable year beginning on or after January 1, 1979;
- f) the expression "political or administrative subdivision", as used in the text of the Convention, where it refers to Romania, shall also include the term "territorial-administrative subdivision".

Done at Bucharest, this fourteenth day of January 1977, in duplicate in the Romanian and Italian languages, both texts being equally authentic.

For the Government of the Socialist Republic of Romania:  
Florea Dumitrescu

For the Government of the Italian Republic:  
Filippo Maria Pandolfi