

STATUTORY INSTRUMENTS

1977 No. 57

INCOME TAX

**The Double Taxation Relief (Taxes on Income) (Romania)
Order 1977**

Laid before the House of Commons in draft
Made - - - 17th January 1977

At the Court at Buckingham Palace, the 17th day of January 1977

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order was laid before the Commons House of Parliament in accordance with the provisions of section 497(8) of the Income and Corporation Taxes Act 1970(a), and an Address has been presented to Her Majesty by that House praying that an Order may be made in the terms of this Order:

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 497 of the said Income and Corporation Taxes Act 1970, section 98(2) of the Finance Act 1972(b) and section 39 of the Finance Act 1965(c), as amended, and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Double Taxation Relief (Taxes on Income) (Romania) Order 1977.

2. It is hereby declared—

(a) that the arrangements specified in the Convention set out in the Schedule to this Order have been made with the Government of the Socialist Republic of Romania with a view to affording relief from double taxation in relation to income tax, corporation tax or capital gains taxes of a similar character imposed by the laws of Romania; and

(b) that it is expedient that these arrangements should have effect.

N. E. Leigh,
Clerk of the Privy Council.

(a) 1970 c. 10.

(b) 1972 c. 41.

(c) 1965 c. 25.

SCHEDULE

CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF ROMANIA FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS.

The Government of the United Kingdom of Great Britain and Northern Ireland 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 capital gains;

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) The taxes which are the subject of this Convention are:

(a) in the United Kingdom of Great Britain and Northern Ireland:

- (i) the income tax;
 - (ii) the corporation tax; and
 - (iii) the capital gains tax;
- (hereinafter referred to as "United Kingdom tax");

(b) in Romania:

- (i) tax on incomes derived by individuals and corporate bodies;
 - (ii) tax on the profits of joint companies constituted with the participation of some Romanian economic organisations and some foreign partners; and
 - (iii) tax on income realised from agricultural activities;
- (hereinafter referred to as "Romanian tax").

(2) This Convention shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Convention in addition to, or in place of, the existing taxes.

ARTICLE 3

General definitions

(1) In this Convention, unless the context otherwise requires:

(a) the term "United Kingdom" means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which in accordance with international law is or may hereafter be designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea bed and sub-soil and their natural resources may be exercised;

(b) the term "Romania" means the territory of the Socialist Republic of Romania and the seabed and sub-soil of the submarine areas beyond the territorial sea, over which Romania exercises sovereign rights, in accordance with international law and with its own law, for the purpose of exploration for and exploitation of the natural resources of such areas;

(c) the term "national" means:

- (i) in relation to the United Kingdom, any individual possessing the national status of citizen under the law of the United Kingdom by virtue of his connection with the United Kingdom and any legal person, association or other entity deriving its status as such from the law in force in the United Kingdom;

- (ii) in relation to the Socialist Republic of Romania, any individual having the citizenship of the Socialist Republic of Romania and any legal person or other entity created under the law in force in the Socialist Republic of Romania;
- (d) the term “tax” means United Kingdom tax or Romanian tax, as the context requires;
- (e) the terms “a Contracting State” and “the other Contracting State” mean the United Kingdom or Romania, as the context requires;
- (f) the term “person” comprises an individual, a company and any other body of persons;
- (g) the term “company” means any body corporate, including a joint company (*societate mixtă*) incorporated under Romanian law, or any entity which is treated as a body corporate for tax purposes;
- (h) 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;
- (i) the term “international traffic” means any transport by a ship or an aircraft or a railway or road vehicle operated by an enterprise which has its place of effective management in a Contracting State, except when such transport is made solely between places in the other Contracting State;
- (j) the term “competent authority” means:
 - (i) in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative;
 - (ii) in the case of Romania, the Minister of Finance or his authorised representative.

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

ARTICLE 4

Fiscal domicile

(1) For the purposes of this Convention, the term “resident of a Contracting State” means, subject to the provisions of paragraphs (2) and (3) of this Article, any person who, under the law of that State, is liable to taxation there by reason of his domicile, residence, place of management or any other criterion of a similar nature. The terms “resident of the United Kingdom” and “resident of Romania” shall be construed accordingly.

(2) Where by reason of the provisions of paragraph (1) of this Article 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 he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;

- (c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national (*cetățean*);
- (d) if he is a national (*cetățean*) 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) of this Article a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

ARTICLE 5

Permanent establishment

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

(2) The term “permanent establishment” shall include especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, oil well, quarry or other place of extraction of natural resources;
- (g) an installation or structure used for the exploration of natural resources;
- (h) 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 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 fixed place of business solely for the purpose of purchasing goods or merchandise or for collecting information, for the enterprise;
- (e) 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) An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on the activity of providing the services within that other Contracting State of artistes or athletes referred to in Article 18.

(5) 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 the provisions of paragraph (6) of this Article apply—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.

(6) 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.

(7) 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) (a) The term "immovable property" shall, subject to the provisions of subparagraph (b) below, be defined in accordance with the law of the Contracting State in which the property in question is situated.

(b) The term "immovable property" shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

(3) The provisions of paragraph (1) of this Article 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) of this Article 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) Subject to the provisions of paragraph (3) of this Article, 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 at arm's length 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 of the enterprise 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) of this Article shall preclude that Contracting State from determining the profits to be taxed

by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles embodied in this Article.

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

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

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

ARTICLE 8

International transport

Profits from the operation of ships, aircraft, or railway and 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.

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 derived from a company which is a resident of Romania by a resident of the United Kingdom may be taxed in the United Kingdom. Such dividends may also be taxed in Romania but where such dividends are beneficially owned by a resident of the United Kingdom the tax so charged shall not exceed:

- (a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company which controls directly or indirectly at least 25 per cent of the voting power in the company paying the dividends;
- (b) in all other cases 15 per cent of the gross amount of the dividends.

(2) Dividends derived from a company which is a resident of the United Kingdom by a resident of Romania may be taxed in Romania. Such dividends may also be taxed in the United Kingdom, and according to the laws of the United Kingdom, but where such dividends are beneficially owned by a resident of Romania the tax so charged shall not exceed:

- (a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company which controls directly or indirectly at least 25 per cent of the voting power in the company paying the dividends;

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

(3) However, as long as an individual resident in the United Kingdom is entitled to a tax credit in respect of dividends paid by a company resident in the United Kingdom, the following provisions of this paragraph shall apply instead of the provisions of paragraph (2) of this Article:

- (a) (i) Dividends derived from a company which is a resident of the United Kingdom by a resident of Romania may be taxed in Romania.
 - (ii) Where a resident of Romania is entitled to a tax credit in respect of such a dividend under subparagraph (b) of this paragraph tax may also be charged in the United Kingdom, and according to the laws of the United Kingdom, on the aggregate of the amount or value of that dividend and the amount of that tax credit at a rate not exceeding 15 per cent.
 - (iii) Except as provided in subparagraph (a) (ii) of this paragraph, dividends derived from a company which is a resident of the United Kingdom and which are beneficially owned by a resident of Romania shall be exempt from any tax in the United Kingdom which is chargeable on dividends.
- (b) A resident of Romania who receives dividends from a company which is a resident of the United Kingdom shall, subject to the provisions of subparagraph (c) of this paragraph and provided he is the beneficial owner of the dividends, be entitled to the tax credit in respect thereof to which an individual resident in the United Kingdom would have been entitled had he received those dividends and to the payment of any excess of such credit over his liability to United Kingdom tax.
- (c) The provisions of subparagraph (b) of this paragraph shall not apply where the beneficial owner of the dividends is a company which either alone or together with one or more associated companies controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividends. For the purpose of this paragraph two companies shall be deemed to be associates if one controls directly or indirectly more than 50 per cent of the voting power in the other company, or a third company controls more than 50 per cent of the voting power in both of them.

(4) The term "dividends" as used in this Article means income from shares, or other rights, not being debt-claims, participating in profits, as well as income from corporate rights assimilated to income from shares by the taxation laws of the State of which the company making the distribution is a resident and also includes any other item (other than interest the taxation of which is limited by the provisions of Article 11 of this Convention) which, under the law of the Contracting State of which the company paying the dividend is a resident, is treated as a dividend or distribution of a company.

(5) The provisions of paragraph (1) or, as the case may be, paragraphs (2) and (3) of this Article shall not apply where the resident of one of the Contracting States has in the other Contracting State a permanent establishment and the holding by virtue of which the dividends are paid is effectively connected with the business carried on through such permanent establishment. In such a case the provisions of Article 7 shall apply.

(6) 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 and beneficially owned by persons who are not residents of the other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other State.

ARTICLE 11**Interest**

(1) Interest arising in a Contracting State which is derived and beneficially owned by a resident of the other Contracting State may be taxed in that other State.

(2) However, such interest may also be taxed in the Contracting State in which it arises, and according to the law of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

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

(4) The provisions of paragraphs (1) and (2) of this Article shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case the provisions of Article 7 shall apply.

(5) Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political 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 that permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

(6) Where, owing to a special relationship between the payer and the beneficial owner 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 beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 12**Royalties**

(1) Royalties arising in a Contracting State which are derived and beneficially owned by a resident of the other Contracting State may be taxed in that other State.

(2) However, such royalties may also be taxed in the Contracting State in which they arise and according to the law of that State, but the tax so charged shall not exceed 15 per cent of the gross amount of the royalties.

(3) Notwithstanding the provisions of paragraph (2) of this Article, in the case of royalties received as consideration for the use of, or the right to use, any copyright of literary, dramatic, musical, artistic or scientific work (including cinematograph films and films or tapes for radio or television broadcasting), the tax charged in the State in which such royalties arise shall not exceed 10 per cent of the gross amount of the royalties.

(4) 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, any copyright of literary, artistic or scientific work (including cinematograph films, and films or tapes 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, or for information concerning industrial, commercial or scientific experience.

(5) The provisions of paragraphs (1), (2) and (3) of this Article shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the provisions of Article 7 shall apply.

(6) Royalties shall be deemed to arise in a Contracting State where the payer is that State itself, a political 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 obligation to pay the royalties was incurred and the royalties are borne by that permanent establishment, then the royalties 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 beneficial owner or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 13

Commission

(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) Commission may also be taxed in the Contracting State in which it arises and according to the law of that Contracting State; but where it is paid to a resident of the other Contracting State the tax so charged shall not exceed 12½ per cent of the gross amount of the commission.

(3) The term "commission" as used in this Article means payments made to any person for services rendered by him as an agent; but it does 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) of this Article shall not apply if the recipient of the commission, being a resident of one of the Contracting States, has in the other Contracting State in which the commission arises a permanent establishment with which the commission is effectively connected. In such a case the provisions of Article 7 shall apply.

(5) Commission shall be deemed to arise in one of the Contracting States when the payer is the Government of that Contracting State or a political 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.

(7) If a resident of one of the Contracting States who receives commission which arises in the other Contracting State so elects for any year of assessment, or financial year, the tax chargeable in respect of that commission in the Contracting State in which it arises shall be calculated as if he had a permanent establishment in that Contracting State and as if that commission were taxable in accordance with Article 7 as profits attributable to that permanent establishment.

ARTICLE 14

Capital gains

(1) Capital 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) Capital gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State.

(3) Notwithstanding the provisions of paragraph (2) of this Article, capital gains from the alienation of ships, aircraft and railway and road vehicles operated in international traffic and movable property pertaining to the operation of such ships, aircraft and railway and road vehicles shall be taxable only in the Contracting State in which, under the provisions of Article 8, profits from such activities are taxable.

(4) Capital gains from the alienation of any property other than those mentioned in paragraphs (1), (2) and (3) of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 15

Independent personal services

(1) Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless, for the purpose of performing his activities, he has a fixed base regularly available to him in the other Contracting State or he is present in that other Contracting State for a period or periods exceeding in the aggregate 183 days in the fiscal year concerned. If he has such a fixed base or is so present for such period or periods, the income may be taxed in the other Contracting State but only so much of it as is attributable to that fixed base or to the aforementioned period or periods.

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

ARTICLE 16

Dependent personal services

(1) Subject to the provisions of Articles 17, 19, 20, 21 and 22 salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is 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; and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

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

ARTICLE 17

Directors' fees

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

ARTICLE 18

Artistes and athletes

Notwithstanding the provisions of Articles 15 and 16, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such, may be taxed in the Contracting State in which these activities are exercised. However, income derived from such activities shall be exempt from tax in that State if the activities are performed under a cultural agreement or arrangement between the Contracting States.

ARTICLE 19

Pensions

(1) Subject to the provisions of paragraphs (1) and (2) of Article 20 pensions and other similar remuneration paid in consideration of past employment to a resident of a Contracting State and any annuity paid to such a resident shall be taxable only in that State.

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

ARTICLE 20

Government functions

(1) Remuneration or pensions paid out of public funds of the United Kingdom or Northern Ireland or of the funds of any local authority in the United Kingdom to any individual in respect of services rendered to the Government of the United Kingdom or Northern Ireland or a local authority in the United Kingdom in the discharge of functions of a governmental nature, shall be taxable only in the United Kingdom unless the individual is a Romanian national (*cetățean*) without also being a United Kingdom national.

(2) Remuneration or pensions paid out of public funds of Romania or a local authority thereof to any individual in respect of services rendered to that State or a

local authority thereof, in the discharge of functions of a governmental nature, shall be taxable only in Romania unless the individual is a United Kingdom national without also being a Romanian national (*cetățean*).

(3) The provisions of paragraphs (1) and (2) of this Article shall not apply to remuneration or pensions in respect of services rendered in connection with any trade or business.

ARTICLE 21

Students and trainees

(1) An individual who is or was a resident of a Contracting State immediately before making a visit to the other Contracting State and who is temporarily present in that other Contracting State solely for the purpose of:

- (a) studying at a university, college, school or other educational institution, or
- (b) training as a business or technical apprentice, or
- (c) obtaining a recognised professional or educational qualification of a specialised nature in that other Contracting State,

shall be exempt from tax in that other Contracting State on:

- (i) remittances from abroad for the purposes of his maintenance, education or training; and
- (ii) remuneration for services rendered in that other Contracting State (other than any rendered by him to a person or partnership to whom he is apprenticed or articulated, or who is providing the training or relevant experience) with a view to supplementing the resources available to him for such purposes, not exceeding the sum of 500 pounds sterling or the equivalent in Romanian lei during any year of assessment (in addition to any personal allowances to which he may be entitled as an individual resident in that State).

(2) The benefits under the provisions of paragraph (1) of this Article shall extend only for such period of time as may be reasonably or customarily required for the purpose of the visit, but in no event shall any individual have the benefit of the provisions of that paragraph for more than five years.

ARTICLE 22

Professors, teachers and research workers

(1) An individual who is a resident of a Contracting State at the time he becomes temporarily present in the other Contracting State, at the invitation of the Government authorities of that other Contracting State or of a university or other recognised educational institution in that other Contracting State for the primary purpose of teaching or engaging in research, or both, at a university or other recognised educational institution shall be exempt from tax in that other Contracting State on his income from personal services for teaching or research at such university or educational institution, for a period not exceeding two years from the date of his arrival in that other Contracting State.

(2) This Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

ARTICLE 23

Income not expressly mentioned

Items of income of a resident of a Contracting State, wherever arising, being income of a class or from sources not expressly mentioned in the foregoing Articles of this Convention shall be taxable only in that State.

ARTICLE 24

Elimination of double taxation

(1) Romanian tax payable under the laws of Romania and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Romania (excluding in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits, income or chargeable gains by reference to which the Romanian tax is computed. Such credit shall be allowed in accordance with the existing provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom and any subsequent modification of those provisions which, however, shall not affect the principle hereof.

(2) Where a resident of Romania derives income or capital gains which, in accordance with the provisions of this Convention, may be taxed in the United Kingdom, Romania shall allow as a deduction from the Romanian tax on the income or capital gains respectively of that person an amount equal to the tax paid in the United Kingdom on that income or capital gains, as the case may be. Such deduction shall not, however, exceed that part of the Romanian tax which is appropriate to the income or capital gains which may be taxed in the United Kingdom.

For the purposes of this paragraph profits paid by Romanian State enterprises to the State budget shall be deemed to be Romanian tax.

(3) For the purposes of paragraphs (1) and (2) of this Article profits, income and capital gains owned by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention shall be deemed to arise from sources in that other Contracting State.

(4) Where profits on which an enterprise of a Contracting State has been charged to tax in that State are also included in the profits of an enterprise of the other State and the profits so included are profits which would have accrued to that enterprise of the other State if the conditions made between the enterprises had been those which would have been made between independent enterprises dealing at arm's length, the amount included in the profits of both enterprises shall be treated for the purposes of this Article as income from a source in the other State of the enterprise of the first-mentioned State and relief shall be given accordingly under the provisions of paragraph (1) or paragraph (2) of this Article.

ARTICLE 25

Non-discrimination

(1) The nationals (*ceţăţenii*) of a Contracting State 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.

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

(4) Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident.

(5) In this Article the term "taxation" means taxes of every kind and description.

(6) The taxes on income, profits and capital and the payments from profits to the State budget (*vărsăminte din beneficii la bugetul de stat*) which under Romanian law are chargeable on socialist units (*unități socialiste*) shall be chargeable only on such units.

ARTICLE 26

Mutual agreement procedure

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

(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with this Convention.

(3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this 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.

ARTICLE 27

Exchange of information

(1) The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than persons (including a court or administrative body) concerned with the assessment or collection of, or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of this Convention.

(2) In no case shall the provisions of paragraph (1) be construed so as to impose on the competent authority of either Contracting State the obligation:

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

ARTICLE 28

Diplomatic and consular officials

Nothing in this Convention shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements to which the two Contracting States are parties.

ARTICLE 29

Entry into force

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

(2) This Convention shall enter into force after the expiration of thirty days following the date on which the instruments of ratification are exchanged(a) and shall thereupon have effect:

- (a) in the United Kingdom:
- (i) as respects income tax and capital gains tax, for any year of assessment beginning on or after 6 April 1976: and
 - (ii) as respects corporation tax, for any financial year beginning on or after 1 April 1976:
- (b) in Romania from 1 April 1976.

ARTICLE 30

Termination

This Convention shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year 1980. In such event, the Convention shall cease to have effect:

- (a) in the United Kingdom:
- (i) as respects income tax and capital gains tax, for any year of assessment beginning on or after 6 April in the calendar year next following that in which the notice is given:
 - (ii) as respects corporation tax, for any financial year beginning on or after 1 April in the calendar year next following that in which the notice is given:
- (b) in Romania after 1 April in the calendar year next following that in which the notice is given.

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

Done in duplicate at Bucharest this eighteenth day of September 1975 in the English and Romanian languages, both texts being equally authoritative.

For the Government of the United
Kingdom of Great Britain and
Northern Ireland:

HAROLD WILSON

For the Government of the Socialist
Republic of Romania:

MANEA MĂNESCU

EXPLANATORY NOTE

(This Note is not part of the Order.)

Under the Convention with Romania scheduled to this Order, certain trading profits not arising through a permanent establishment, pensions (other than Government pensions) and the earnings of temporary business visitors are (subject to certain conditions) to be taxed only in the country of the taxpayer's residence. International transport profits are to be taxed only in the country of effective management of the enterprise. Government salaries and pensions are normally to be taxed by the paying Government only. The

(a) Instruments of ratification were exchanged on 22nd October 1976.

remuneration of visiting teachers and professors and certain payments made to visiting students are (subject to certain conditions) to be exempt in the country visited.

Where income continues to be taxable in both countries, relief from double taxation is to be given by the country of the taxpayer's residence.

The rate of tax on dividends flowing from one country to the other is normally not to exceed 10 per cent where the dividend is paid to a company which controls directly or indirectly at least 25 per cent of the voting power in the paying company and 15 per cent in all other cases. The Convention also makes specific provision for dividends paid by a United Kingdom company to a resident of Romania as long as under United Kingdom law an individual resident in the United Kingdom is entitled to a tax credit in respect of dividends paid by a company resident in the United Kingdom. It prescribes that where a United Kingdom company pays a dividend to a resident of Romania other than a company which controls directly or indirectly at least 10 per cent of the voting power in the paying company, the recipient is (subject to certain conditions) to receive the tax credit to which an individual resident in the United Kingdom and in receipt of such a dividend would be entitled, less income tax at a rate not exceeding 15 per cent on the aggregate of the dividend and the tax credit.

The rate of tax in the source country on interest, royalties and commission flowing from one country to the other is, in general, not to exceed 10 per cent, 15 per cent and 12½ per cent respectively. The recipient of commission is, however, to have the right to elect to have the tax in the country of source calculated as if it were industrial or commercial profits attributable to a permanent establishment.

There is provision for the taxation of capital gains on immovable property by the country in which the property is situated. Capital gains arising from the disposal of movable property are normally to be taxed only in the country of the taxpayer's residence unless they arise from the disposal of assets of a permanent establishment or fixed base which the taxpayer has in the other country.

There are also provisions safeguarding nationals and enterprises of one country against discriminatory taxation in the other country and for the exchange of information and consultation between the taxation authorities of the two countries.

The Convention is to take effect in the United Kingdom as respects income tax and capital gains tax for the tax year 1976/77 and subsequent years and as respects corporation tax for the financial year beginning on 1st April 1976 and subsequent years.

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