

CONVENTION
BETWEEN
THE GOVERNMENT OF UKRAINE
AND
THE GOVERNMENT OF ROMANIA
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL.

The Government of Ukraine and

the Government of Romania

desiring to conclude a Convention for the avoidance of double taxation
and the prevention of fiscal evasion with respect to taxes on income
and on capital

have agreed as follows:

Article 1

PERSONAL SCOPE

This Convention shall apply to persons who are residents of one or both of the Contracting States.

Article 2

TAXES COVERED

1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its local authorities or its political subdivisions or administrative - territorial units, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property and the taxes on wages and salaries withheld by the enterprises, as well as taxes on capital appreciation.

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

a) in the case of Ukraine:

(i) tax on profit of enterprises; and

(ii) income tax on citizens;

(hereinafter referred to as "Ukrainian tax");

b) In the case of Romania:

(i) tax on income derived by individuals;

(ii) tax on the profits of legal persons;

(iii) tax on salaries, and other similar remunerations;

(iv) tax on dividends;

(v) tax on income realised from agricultural activities, derived by individuals;

(hereinafter referred to as "Romanian tax").

4. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the

Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of changes which have been made in their respective taxation laws within a reasonable period of time after such changes.

Article 3

GENERAL DEFINITIONS

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

a) the terms "a Contracting State" and "the other Contracting State" mean Ukraine or Romania as the context requires;

b) the term "Ukraine" means the territory of Ukraine, its continental shelf and its exclusive economic (maritime) zone, including any territory outside the territorial sea of Ukraine which, according to international law, is specified or may be specified, according to Ukrainian law, as the territory within which the rights of Ukraine relating to the seabed and natural resources are effective;

c) the term "Romania" means Romania and, when used in geographical sense indicates the territory of Romania including its territorial sea as well as the exclusive economic zone over which Romania exercises sovereignty, sovereign rights, or jurisdiction in accordance with its internal law and with international law, concerning the exploration and the exploitation of the natural, biological and mineral resources existing in the sea waters, seabed and subsoil of these waters;

d) the term "tax" means Ukrainian tax, or Romanian tax as the context requires;

e) the term "person" includes an individual, a company and any other body of persons in either of the Contracting States;

f) the term "company" means any body corporate or any other entity which is treated as a body corporate for tax purposes;

g) 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;

h) the term "national (citizen)" means:

(i) in the case of Ukraine:

aa) physical person having the citizenship of Ukraine;

bb) all legal persons, partnerships and associations that receive such status according to Ukrainian law.

(ii) in the case of Romania any individual possessing the citizenship of Romania and all the legal persons, the bodies of persons and any other entity deriving its status as such from the laws in force in Romania.

i) the term "international traffic" means any transport by a ship, aircraft, railway or road vehicle operated by an enterprise which is a resident of a Contracting State, except when such transport is operated solely between places situated in the other Contracting State;

j) the term "competent authority" means:

(i) in the case of Ukraine the Ministry of Finance or its authorized representative.

(ii) in the case of Romania the Ministry of Finance or its authorized representative;

k) the term "local authority or political subdivision" is referring to Ukraine and the term "administrative-territorial unit" is referring to Romania;

l) the term "capital" in the case of Ukraine means "property".

2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

Article 4

RESIDENT

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 tax therein by reason of his domicile, residence, place of registration, place of management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

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 as follows:

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 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 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 (citizen);

d) if he is a national (citizen) of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
 - a) a place of management;
 - b) a branch;
 - c) an office;
 - d) a factory;
 - e) a workshop;
 - f) installations for prospecting to derive income;
 - g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
 - h) stockhouse or other similar premises used for any delivery of goods in order to derive income.
3. The term "permanent establishment" likewise encompasses:
 - a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than 12 months;
 - b) the furnishing of services, including consultancy services, by an enterprise of a Contracting State through employees or other engaged personnel in the other Contracting State, provided that such activities continue for the same project or a connected project for a period or periods aggregating more than 12 months.
4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:
 - a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise without deriving income;
 - b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery without deriving income;

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 sale of goods or merchandise belonging to the enterprise displayed in the frame of an occasional temporary fair or exhibition after the closing of the said fair or exhibition;

e) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

f) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

g) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to f), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2 when a person -other than an agent of an independent status to whom paragraph 6 applies - is acting in a Contracting State on behalf of an enterprise of the other Contracting State shall be deemed to have a permanent establishment in the first mentioned State if:

a) he has in the first - mentioned State a general authority to negotiate and conclude contracts for or on behalf of such enterprise, or

b) he maintains in the first - mentioned State a stock of goods or merchandise from which he regularly sells goods or merchandise for or on behalf of such enterprise.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

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 derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include all 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, aircraft, railway and road vehicles shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal 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, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of the patents or other rights, or by way of commission, for specific services performed or for management, or except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of the patents or other rights, or by way of commission, for specific services performed or for management, or except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

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 contained 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

INCOME FROM INTERNATIONAL TRAFFIC

1. Profits from the operation of ships, aircraft, railway or road vehicle operated in international traffic shall be taxable only in the Contracting State of which the enterprise is a resident.

2. For the purposes of this Article, profits from the operation of ships, aircraft or railway and road vehicles in international traffic include:

a) income from the rental on a bareboat basis of ships, aircraft or railway and road vehicles;
and

b) profits from the use, maintenance or rental of containers (including trailers for the transport of containers) used for the transport of goods or merchandise;

where such rental or such use, maintenance or rental, as case may be, is incidentally to the operation of ships, aircraft, railway and road vehicles in international traffic.

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

Article 9

ASSOCIATED ENTERPRISES

1. 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.

2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the

competent authorities of the Contracting States shall if necessary consult each other.

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 also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:
 - a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;
 - b) 15 per cent of the gross amount of the dividends in all other cases.

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 or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws 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 beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such

case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State if this resident is a beneficial owner of this interest.

2. However, such interest may also 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 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2 of this Article, interest arising in Contracting State shall be exempt from the tax in that State if paid on debt-claim of the Government of the other Contracting State, its National (Central) Bank or any other bank or institution, authorised to make, guarantee or insure credits on behalf of the Government of the other State.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a local authority, a political subdivision or an administrative-territorial unit, 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 or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

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

8. The provisions of this Article shall not apply if it is the main purpose or one of the main purposes of a person concerned with the creation or transfer of the debt-claim in respect of which the interest is paid to take advantage of this Article by means of that creation or transfer.

Article 12

ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if this resident is the beneficial owner of the royalties.
2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed:
 - a) 10 per cent of the gross amount of the royalties for the use of or the right to use any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience;
 - b) 15 per cent of the gross amount of the royalties in all other case.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, 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, any industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14 , as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a local authority, a political subdivision or an administrative-territorial unit 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 or a fixed base in connection with which the liability to pay royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, 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 such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

7. The provisions of this Article shall not apply if it is the main purpose or one of the main purposes of a person concerned with the creation or transfer of the rights in respect of which the royalties are paid to take advantage of this Article by means of that creation or transfer.

Article 13

CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in the Contracting State in which such property is situated.

2. Gains derived by a resident of a Contracting State from the alienation of:

a) shares, deriving their value or the greater part of their value directly or indirectly from immovable property situated in the other Contracting State, or

b) the contribution in a partnership which assets consist principally

of immovable property situated in the other Contracting State, or of shares referred to in sub-paragraph a) above,

may be taxed in that other State.

3. 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 independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

4. Gains from the alienation of ships, aircraft, railway and road vehicles operated in international traffic or movable property pertaining to the operation of such means of transport shall be taxable only in the Contracting State of which the enterprise is a resident.

5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent 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 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 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21 salaries, and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any period of twelve months; 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 derived in respect of an employment exercised aboard a ship, aircraft or a railway and road vehicles operated in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State of which the enterprise is a resident.

Article 16

DIRECTORS' FEES

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

Article 17

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15 , income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.
3. Notwithstanding the provisions of paragraphs 1 and 2, the income derived from the activities performed within the framework of cultural exchanges established under cultural agreements concluded between the two Contracting States, shall be reciprocally exempt from tax, only if such activities are sponsored by the Government of a Contracting State.

Article 18

PENSIONS

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration including annuities paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State of which he is a resident.
2. The term "annuity" means the fixed amount, being paid to a physical person periodically at a fixed time during the life of this person or during the fixed period of time under the obligation to return amount for adequate or full compensation in the form of money or goods or services.
3. Notwithstanding the provisions of paragraph 1 of this Article pensions and other similar payments made under the social security legislation of a Contracting State shall be taxable only in that State.

Article 19

GOVERNMENT SERVICE

1.
 - a) Remuneration, other than a pension, paid by a Contracting State or a local authority thereof or a political subdivision or an administrative-territorial unit thereof to an individual in respect of services rendered to that State or authority, subdivision or unit 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 individual is a resident of that State who:
 - (i) is a national (citizen) of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2.
 - a) Any pension paid by, or out of funds created by, a Contracting State or a local authority thereof, a political subdivision or an administrative-territorial unit thereof to an individual in respect of services rendered to that State or authority, subdivision or unit shall be taxable only in that State.
 - b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national (citizen) of that State.
3. The provisions of Articles 14, 15 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a local authority thereof, a political subdivision or an administrative-territorial unit thereof.

Article 20

STUDENTS AND TRAINEES

A student or a trainee who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is

present in the first-mentioned State solely for the purpose of his education or training shall be exempt from tax in that first-mentioned Contracting State for the period of his education or training on the following payments received by him for the purpose of his maintenance, education or training:

- a) payments derived from sources outside the Contracting State for the purpose of his maintenance, education, research or training;
- b) grants, scholarships or other payments supplied by the Government or a scientific, educational, cultural or other non-profitmaking organisation.

Article 21

TEACHERS AND RESEARCHERS

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, at the invitation of any university, college, school or other similar non-profitable educational institutions, which are recognised by the Government of the other Contracting State, is present in that other Contracting State for a period not exceeding two years from the date of his first arrival in that other Contracting State, solely for the purpose of teaching or research or both, at such educational institution shall be exempt from tax in that other Contracting State on his remuneration for teaching or research.
2. The provisions of paragraph 1 of this Article shall not apply to income from research if such research is undertaken not in the public interest but for the private benefit of a specific person or persons.

Article 22

OTHER INCOME

1. Items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention shall be taxable in the Contracting State in which they arise.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such 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 independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14 , as the case may be, shall apply.

Article 23

TAXATION OF CAPITAL

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

2. Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise or by movable property pertaining to a fixed base used for the performance of independent personal services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.

3. Ships ,aircraft, railway and road vehicles operated in international traffic, and movable property pertaining to the operation of such means of transport shall be taxable only in the Contracting State of which the enterprise is a resident.

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

Article 24

METHODS FOR ELIMINATION OF DOUBLE TAXATION

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

As regards the application of the provisions of Ukrainian legislation concerning the tax exemption in respect of tax paid outside the territory of Ukraine, (which shall not be contrary to the main principles of this paragraph) Romania tax which is paid under Romanian legislation in accordance with this Convention directly or by way of deductions from profit, income or capital from Romania sources, the reduction shall be done by way of a credit against any Ukrainian tax computed in respect of such profit, income or capital in respect of which this Ukrainian tax is computed.

This reduction in either case shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable as the case may be to the income or the capital which may be taxed in that other State .

Where in accordance with any provision of the Convention income derived or capital owned by a resident of Ukraine, is exempt from tax in Ukraine, Ukraine may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

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

a) when a resident of Romania derives income or have capital which in accordance with the provisions of this Convention are taxable in Ukraine, Romania exempts from tax this income or capital - excepting the items of income mentioned in subparagraph b) - and takes into account in determining the tax rate the total income derived, applying this tax rate only to the remaining income;

b) when a resident of Romania derives items of income which in accordance with the provisions of Articles 10, 11 and 12 may be taxed in Ukraine, Romania shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Ukraine. Such deduction shall not, however, exceed that part of the tax , as computed before the deduction is given ,which is attributable to such items of income derived from Ukraine.

Article 25

NON-DISCRIMINATION

1. Nationals (citizens) 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 (citizens) of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. The provisions shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
2. Stateless persons who are residents of a Contracting State shall not be subjected in either 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 the State concerned in the same circumstances are or may be subjected.
3. The taxation of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.
4. The provisions of this Article shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status, family responsibilities or criteria not stipulated by domestic general tax law, which it grants to its own residents.
5. Except where the provisions of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

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

7. The provisions of this Article shall apply to taxes covered by this Convention.

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 the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to that of the Contracting State of which he is a national (citizen). The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

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

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

4. The competent authorities of the Contracting States may

communicate with each other directly for the purpose of reaching an agreement in 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 carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention and to prevent the tax evasion and facilitate the application of the law against the tax evasions. Using the consultations, the competent authorities will provide adequate conditions, methods and principles for information exchange including the information on tax evasions. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State, and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- c) to supply information which would disclose any 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 AGENTS AND CONSULAR OFFICERS

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

Article 29

ENTRY INTO FORCE

1. Each of the Contracting States shall notify to the other, through the diplomatic channel the procedures required by its domestic law for the bringing into force of this Convention are realised. This Convention shall enter into force on the date of the later of these notifications and shall thereupon have effect:

(i) in respect of taxes on dividends, interest or royalties for any payments made on or after the sixtieth day following that day on which the notification is given;

(ii) in respect of tax on capital and tax on profit of enterprises for any taxation period beginning on or after 1 January in the calendar year next following that in which the notification is given;

(iii) in respect of income tax on individuals for any payments made on or after the sixtieth day following that day on which the notification is given.

2. Since the entry into force of this Convention, in the mutual relations between Ukraine and Romania, the application of the multilateral Agreement for the Avoidance of Double Taxation with Respect to Income and Capital of Individuals signed in Miskolc on 27 May 1977 and the multilateral Agreement for the Avoidance of Double Taxation with Respect to Income and Capital of Legal Entities signed in Ulan-Bator on 19 May 1978 shall cease to have effect.

Article 30

TERMINATION

This Convention shall remain in force until terminated by one of the Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notification of termination at least six months before the end of any calendar year beginning after the expiry of five years from the date of entry into force of the Convention. In such event, the Convention shall cease to have effect:

(i) in respect of taxes on dividends, interest or royalties for any payments made on or after the sixtieth day following that day on which the notification is given;

(ii) in respect of tax on capital and tax on profit of enterprises for any taxation period beginning on or after 1 January in the calendar year next following that in which the notification is given;

(iii) in respect of income tax on individuals for any payments made on or after the sixtieth day following that day on which the notification is given.

In witness whereof the undersigned, duly authorised thereto have signed this Convention .

Done in duplicate at at in Ukrainian, Romanian and English languages, all texts being equally authentic. In case of divergency of interpretation, the English text shall prevail.

For the Government
of Ukraine



For the Government
of Romania

