

2000 Income and Capital Tax Convention (English Translation)

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CONVENTION BETWEEN THE UNITED MEXICAN STATES AND ROMANIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

[TRANSLATION]

The United States of Mexico and Romania, for the purpose of promoting and strengthening the economic relations between the two countries, have agreed to the following provisions:

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 capital imposed on behalf of each of the Contracting States or of the political subdivisions, local authorities or administrative-territorial units thereof, 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 or on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.
3. The existing taxes to which the Convention shall apply specifically are:
 - a) in the case of Mexico:
 - federal income tax (el impuesto sobre la renta federal)(hereinafter referred to as "Mexican tax");
 - b) in the case of Romania:
 - i) income tax (the impozitul pe veniturile);
 - ii) profits tax (the impozitul pe beneficiile);
 - iii) tax on income from agricultural activities (the impozitul pe veniturile realizate din activitati agricole);(hereinafter referred to as "Romanian tax").
4. The Convention shall apply also to any identical or similar taxes that 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 any significant changes which have been made in their respective taxation laws.

Article 3 General Definitions

1. For the purposes of this Convention, unless the context otherwise requires:
 - a) the term "Mexico" means the United States of Mexico; when used in a geographical sense, it means the territory of the United States of Mexico; as well as the integrated parts of the Federation; the islands, including the reefs and cays in the adjacent waters; the islands of Guadalupe and Revillagigedo; the continental shelf and the seabed and submarine shelves of the islands, cays and reefs; the waters of the territorial seas and the inland waters and any areas beyond the territorial seas and inland waters over which, in accordance with international law, Mexico may exercise sovereign rights of exploration for and exploitation of the natural resources of the seabed, subsoil and superjacent waters; and the air space over the national territory, to the extent and upon the conditions established by international law;
 - b) the term "Romania" means the State territory of Romania including its territorial sea and the air space over the territory and the territorial sea over which Romania exercises sovereignty, as well as the contiguous zone and the continental shelf and the exclusive economic zone over which Romania exercises, in accordance with its domestic laws and with the rules and principles of international law, sovereign rights and jurisdiction;
 - c) the terms "a Contracting State" and "the other Contracting State" mean Mexico and Romania, as the case may be;
 - d) the term "person" includes an individual, a company and any other body of persons;

- e) the term "company" means any body corporate, or any entity which is treated as a body corporate for tax purposes;
 - f) the terms "enterprise of a Contracting State and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
 - g) the term "national" means:
 - i) any individual possessing the nationality of Mexico, in the case of Mexico, or the citizenship of Romania, in the case of Romania; and
 - ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;
 - h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
 - i) the term "competent authority" means:
 - i) in the case of Mexico, the Ministry of Finance and Public Credit; and
 - ii) in the case of Romania, the Ministry of Finance or its authorized representative.
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 relating to the taxes which are the subject of this Convention.

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 management or any other criterion of a similar nature. This term, however, does not include any person who is liable to tax in that State in respect only of income derived from sources in that State.
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 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 Contracting State with which his personal and economic relations are closer (center of vital interests);
 - b) if the Contracting State in which he has his center of vital interests cannot be determined, or if he does not have a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has 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 State of which he is a national;
 - d) in any other case, 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 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) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
 - g) an agricultural, livestock or fish farm.
3. The term "permanent establishment" shall also include a building site or construction or an installation or assembly project, or supervisory activities connected therewith, but only if such sites, construction, project or activity last more than six 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;

- 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 occasional sale of goods or merchandise belonging to the enterprise and exhibited temporarily at a 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 collecting information, for the enterprise;
- f) the maintenance of a fixed place of business solely for the purpose of advertising, supplying information, scientific research, or for preparation in relation to the placement of loans or for similar activities which have a preparatory or auxiliary character, provided that such activities are carried on by the enterprise;
- g) the maintenance of a fixed place of business solely for the purpose of any combination of activities mentioned in subparagraphs a) to f), provided that the overall activity of the fixed place of business is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 7 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business or permanent establishment under the provisions of that paragraph.

6. Notwithstanding the provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to reinsurance, be deemed to have a permanent establishment in the other State if it collects premiums in the territory of that other State or if it insures risks situated therein through a person other than an agent of independent status to whom paragraph 7 applies.

7. An enterprise shall not be deemed to have a permanent establishment in a 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 and that, in their commercial or financial relations with the enterprise, conditions are not made or imposed which differ from those generally agreed to by independent agents.

8. 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 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 of a fixed or variable amount 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 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 or has carried on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on or has carried on business as aforesaid, the profits of the enterprise may be taxed in the other Contracting State, but only so much of them as is attributable to:

- a) that permanent establishment; or

b) sales in that other State of goods or merchandise of a type identical or similar to that of those sold through that establishment.

2. Subject to the provisions of paragraph 3 of this Article, where an enterprise of a Contracting State carries on or has carried 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. If the enterprise carries on business as aforesaid, the profits of the business may be taxed in the other Contracting State, but only so much of them as is attributable to that permanent establishment.

3. In determining the profit of the permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Contracting 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 toward reimbursement of actual expenses) by the permanent establishment to the head office or any of its other offices, by way of royalties, fees or similar payments in return for the right to use patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a bank, by way of interest on moneys lent to the permanent establishment. Such provisions shall apply in accordance with the domestic laws of the Contracting State in which the permanent establishment is situated.

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 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 Shipping and Air Transport

1. Profits derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that Contracting State.

2. Profits referred to in paragraph 1 of this Article shall not include profits derived from the operation of hotels or from a transport activity other than the operation of ships and aircraft in international traffic.

3. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic shall include:

a) income from the rental of ships or aircraft in international traffic on a bareboat basis; and
b) income from the use, and payments for the demurrage or rental of containers (including trailers for the transport of containers) used in the transport of goods or merchandise, provided that the payments for the said rental, use or demurrage, as the case may be, are incidental to the operation of ships or aircraft in international traffic.

4. The provisions of paragraph 1 of this Article shall also apply to profits derived from 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 a 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 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 the competent authority of that other State shall, if it agrees to the inclusion, make an appropriate adjustment to the amount of the tax charged 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.

3. The provisions of paragraph 2 of this Article shall not apply in the case of fraud or willful default or neglect.

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 if the said resident is the beneficial owner.

2. 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 beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 10 percent of the gross amount of the dividends.

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

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same tax 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 of this Article 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 or has performed 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 cases the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. A Contracting State may not impose any tax on dividends paid by a company which is not a resident of that State, 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 that other State.

Article 11 Interest

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

2. However, such interest may be taxed in the Contracting State in which it arises and according to the laws of that State but, if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 15 percent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2 of this Article, interest referred to in paragraph 1 of this Article may only be taxed in the Contracting State of which the beneficial owner is a resident where:

a) the said beneficiary is the government of one of the Contracting States, or a political subdivision, a local authority or an administrative-territorial unit thereof, or the Banco de Mexico or the National Bank of Romania;

b) the interest arises in Romania and is paid in respect of a loan for a period of not less than three years made, guaranteed or insured by the Banco Nacional de Comercio Exterior, S.N.C., the Banco Nacional Financiera, S.N.C., the Banco Nacional de Obras and Servicios, S.N.C., or other institutions the capital of which is wholly-owned by the Government of Mexico, or any of the political subdivisions or local authorities thereof that are designated by the competent authorities of the Contracting States by mutual agreement;

c) the interest arises in Mexico and is paid in respect of loans or debt-claims for a period of not less than three years made, guaranteed or insured by the Export-Import Bank of Romania (EXIMBANK), or other institutions the capital of which is wholly-owned by the Government of Romania or by administrative-territorial units thereof that are designated by the competent authorities of the Contracting States by mutual agreement.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as all other income that is treated as income from money lent by the taxation laws of the State in which the income arises. Penalty charges for late payment shall not be regarded as interest for the purposes of this Article.

5. 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, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated in that other State, or performs professional services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such cases the provisions of Article 7 or Article 14 shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, or a political subdivision, a local authority or an administrative-territorial unit thereof 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 State a permanent establishment or a fixed base 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 there is a special relationship between the payer and the beneficial owner or between both of them and some other person, and the amount of the interest exceeds, for whatever reason, 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 the debt-claim in respect of which the interest is paid was agreed or assigned with the main purpose of taking advantage of this Article.

Article 12 Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other 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 laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 15 percent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematograph films and works recorded on film or videotape or other means of reproduction for use in connection with radio and television, transmission by satellite or cable or by any other electronic medium used for public broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of or the right to use, industrial, commercial or scientific equipment, and for information concerning industrial, commercial or scientific experience. The term "royalties" also includes gains derived from the alienation of any such right or property which are contingent on the productivity or use thereof.

4. The provisions of paragraphs 1 and 2 of this Article shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other State in which the royalties arise, through a permanent establishment situated in that other State, or performs professional services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such cases 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 where the payer is that State itself, or a political subdivision, a local authority, an administrative-territorial authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a State or not, has in a Contracting State a permanent establishment or fixed base 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 the 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 paid, for whatever reason, 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 the right or property in respect of which the royalties are paid was agreed or assigned with the main purpose of taking advantage of this Article.

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, situated in the other Contracting State may be taxed in that other State.

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

3. Gains from the alienation of shares representing the capital of a company, the value of which mainly derives, directly or indirectly, from immovable property situated in a Contracting State or from rights pertaining to such immovable property, may be taxed in that State.

4. In addition to gains taxable in accordance with the provisions of the preceding paragraphs of this Article, gains derived by a resident of a Contracting State from the alienation of stock, participation, or other rights in the capital of a company which is a resident of the other Contracting State may be taxed in that other Contracting State if the recipient of the gain, during the twelve month period preceding such alienation, had, directly or indirectly, a participation of 20 percent in the capital of that company.

5. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the enterprise is resident.

6. Gains from the alienation of the property or rights referred to in paragraph 3 of Article 12 of this Convention shall be taxable in accordance with the provisions of that Article.

7. Gains from any property other than that referred to in the preceding paragraphs of this Article 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 Contracting State. However, such income shall also be taxed in the other Contracting State if:

a) the resident, being an individual, is present in the other State for a period or periods exceeding in the aggregate one hundred and eighty-three days in any twelve-month period commencing or ending in the fiscal year concerned; or

b) the resident has a fixed base regularly available to him in that other State for the purpose of performing his activities, but only to the extent of the income that is attributable to the services performed in that other State.

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 and 19, 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 one hundred and eighty-three days in any twelve month period commencing or ending in the fiscal year concerned;

b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and

c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise which is a resident of the other Contracting State may be taxed in that Contracting State.

Article 16 Directors' Fees

Directors' fees and similar payments derived by a resident of a Contracting State as a member of a Board of Directors (consejo de administración) or Supervisory Board (consejo de vigilancia), or in his capacity as a board director (administrador) or statutory auditor or overseer (comisario), 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, or a theater, 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. Where an entertainer or a sportsman who is a resident of a Contracting State, derives from the other Contracting State income from his personal activities relating to his personal reputation as an entertainer or sportsman exercised in the other Contracting State, such income may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or 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. Income derived by an entertainer or sportsman from his personal activity as such shall, notwithstanding the provisions of paragraphs 1 and 2 of this Article, be exempt from tax in the Contracting State in which such activities are exercised, where the activities are exercised in the course of a visit that is substantially paid for by the other Contracting State, or a political subdivision, a local authority, an administrative-territorial unit or a public body thereof within the framework of a cultural exchange between the Governments of the Contracting States.

Article 18 Pensions

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 19 Government Service

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

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

i) is a national in the case of Mexico, or a citizen in the case of Romania, 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 any of its political subdivisions, local authorities or administrative-territorial units, to an individual in respect of services rendered to that State or subdivision or authority or unit shall be taxable only in that State;

b) However, such a pension shall be taxable only in the other Contracting State if the individual is a resident and a national, in the case of Mexico, or is a resident and a citizen, in the case of Romania.

3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions paid in consideration of services rendered in connection with a business carried on by a Contracting State or a political subdivision, a local authority or an administrative-territorial unit thereof.

Article 20 Students, Business Apprentices and Trainees

Payments which a student, business apprentice or 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, receives to cover the costs of his maintenance, education or training, shall not be taxed in that Contracting State for a period of up to six years, reckoned from the first year of studies, provided that such payments arise from sources outside that State.

Article 21 Professors, Teachers and Researchers

An individual who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who, at the invitation of any university or other similar educational institution that is recognized as a not-for-profit institution by the Government of that other State, visits that other State solely for the purpose of performing teaching or research activities, or for the purpose of both activities, in that university or educational institution, shall be exempt from tax in that other State in respect of remuneration derived from such activities provided that such remuneration arises from sources outside that State, for a period not exceeding two years from the date of his first arrival in that other State.

Article 22 Capital

1. Capital represented by immovable property referred to in paragraph 2 of Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.
2. Capital represented by 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 by 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, or by movable property that is used or processed by an enterprise in the other Contracting State, may be taxed in that other State.
3. Capital represented by ships and aircraft operated in international traffic and by movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in the Contracting State in 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 23 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 only in the Contracting State from which they derive.
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 professional services from a fixed base also 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 cases the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 24 Elimination of Double Taxation

1. Where a resident of Romania derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Mexico, Romania shall deduct:
 - a) from the tax that it levies on the income of that resident, an amount equal to the income tax (impuesto sobre la renta) paid in Mexico;
 - b) from the tax that it levies on the capital of that resident, an amount equal to the asset tax (impuesto sobre el capital) paid in Mexico.

Such deduction in either case shall not, however, exceed that part of the income tax (impuesto sobre la renta) or of the asset tax (impuesto sobre el capital), as computed before the deduction, which is attributable, as the case may be, to the income or to the capital which may be taxed in Mexico.

2. In the case of a resident of Mexico, Mexico shall, in accordance with the provisions and subject to the restrictions in the laws of Mexico, and according to the amendments from time to time of such laws which do not affect the general principles thereof, allow that resident to credit against the Mexican income tax (impuesto sobre la renta):
 - a) the income tax (impozitul pe veniturile) paid to Romania by that resident or on his behalf; and
 - b) in the case of a company that owns at least 10 percent of the share capital of a company that is a resident of Romania and from which the first-mentioned company receives the dividends, the income tax (impozitul pe veniturile) paid to Romania by the company that distributes those dividends or on behalf of that company in respect of the profits from which the dividends are paid.

Article 25 Non-Discrimination

1. Nationals 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. This provision shall, notwithstanding the provisions of Article 1, also apply to nationals, in the case of Mexico, and to citizens, in the case of Romania, although they are not resident in either State.

2. A Contracting State shall not impose any charge on a resident of the other Contracting State by including income already taxed in that other Contracting State, after the expiry of the limitation period established in its domestic laws.

3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other Contracting State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

4. 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.

5. 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.

6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 26 Mutual Agreement Procedure

1. Where a person 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 State of which he is a resident or a national. 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 endeavor, 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 endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Convention. They may also consult together in relation to 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.

5. If a difficulty or doubt regarding the interpretation or application of this Convention is unable to be resolved by the competent authorities of the Contracting States, in accordance with the preceding paragraphs of this Article, the case may be submitted to arbitration, if the competent authorities and the taxpayers so agree, provided that the taxpayers involved agree in writing to be bound by the decision of the arbitration board. The decision of the arbitration board in a particular case shall be binding on both States, with respect to that case. The procedure shall be established between both States by notes exchanged through the diplomatic channel.

6. Notwithstanding the provisions of any international treaty on trade or investment, to which the Contracting States are or may become parties, any dispute over a measure taken by a Contracting State in connection with any of the taxes included in Article 2, or in the case of non-discrimination, any taxation measure taken by a Contracting State, including a dispute over the application of this Convention, shall be settled only in accordance with the Convention, unless the competent authorities of the Contracting States agree otherwise.

Article 27 Assistance in Recovery

1. Each of the Contracting States shall endeavor to collect on behalf of the other Contracting State the taxes and amounts incidental thereto payable in that other State, which the first-mentioned State has requested to be collected and recovered.

2. In no case shall the provisions of this Article be construed so as to impose on the requested State an obligation to apply enforcement measures that are not allowed by the provisions of the laws and regulations of either of the Contracting States, or to take measures at variance with public policy (ordre public).

Article 28 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 imposed on behalf of the Contracting States, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1.

Any information received by a 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) concerned with the assessment or collection of the taxes levied on behalf of that State, or with the enforcement or prosecution in respect of, or the determination of appeals in relation to, those taxes. 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; and
- 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 29 Members of Diplomatic Missions and Consular Posts

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

Article 30 Entry Into Force

1. This Convention shall enter into force on the date on which the Contracting States exchange notes through the diplomatic channel notifying each other that the necessary requirements for the entry into force of this Convention have been satisfied. The Convention shall enter into force on the date of receipt of the later notification.

2. The Convention shall come into effect:

- a) in respect of taxes withheld at the source, on income payable, from the first of January in the year following the date on which the Convention enters into force;
- b) in respect of other taxes, from the first of January of the year following the date on which the Convention enters into force.

Article 31 Termination

1. This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the expiry of a period of five years from the date of its entry into force.

2. The Convention shall cease to have effect:

- a) in respect of taxes withheld at the source, on income payable from the first of January of the year following that in which the notice of termination is given;
- b) in respect of other taxes, from the first of January in the year following the year in which the notice of termination is given.

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

Done in two originals in Mexico City, this twentieth day of July, two thousand, in the Spanish and Romanian languages, both texts being equally authoritative.

FOR THE UNITED MEXICAN STATES:

José Angel Gurría Treviño
Minister of Finance and Public Credit

FOR ROMANIA:

Mircea Ciumara
Minister and President of the Economic and Financial Council