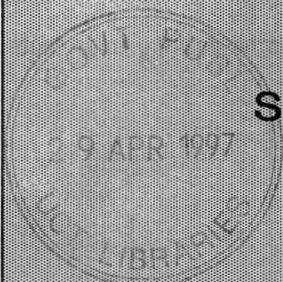


REPUBLIC  
OF  
SOUTH AFRICA



REPUBLIEK  
VAN  
SUID-AFRIKA



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## GOVERNMENT NOTICE

## GOEWERMENTSKENNISGEWING

### SOUTH AFRICAN REVENUE SERVICE

### SUID-AFRIKAANSE INKOMSTE- DIENS

No. 607

22 April 1997

It is hereby notified that Parliament has in terms of section 231 (2) of the Constitution ratified the following Agreement which is hereby published for general information, and has furthermore expressly provided in terms of section 231 (3) of the Constitution that the Agreement shall form part of the law of the Republic.

No. 607

22 April 1997

Hierby word bekendgemaak dat die Parlement ingevolge artikel 231 (2) van die Grondwet die volgende Ooreenkoms wat hierby vir algemene inligting gepubliseer word, bekragtig het, en verder uitdruklik bepaal het dat die Ooreenkoms ingevolge artikel 231 (3) van die Grondwet deel uitmaak van die reg van die Republiek.

**AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND THE GOVERNMENT OF THE KINGDOM OF LESOTHO FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME**

**Preamble**

The Government of the Republic of South Africa and the Government of the Kingdom of Lesotho desiring to promote and strengthen the economic relations between the two countries,

Have agreed as follows:

**Article 1**

***Personal Scope***

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

**Article 2**

***Taxes Covered***

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or its political subdivisions, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income.

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

(a) in Lesotho, the taxes imposed under the Income Tax Order, 1993 (Order No 9 of 1993), as at the date of signature of this Agreement;

(hereinafter referred to as "Lesotho tax"); and

(b) in South Africa:

- (i) the normal tax;
- (ii) the non-resident shareholders' tax; and
- (iii) the secondary tax on companies;

(hereinafter referred to as "South African tax").

4. This Agreement shall also apply to any other taxes of a substantially similar character which are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes.

5. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws, and if it seems desirable to amend any Article of this Agreement without affecting the general principles thereof, the necessary amendments may be made by mutual consent by means of an Exchange of Notes.

# OOREENKOMS TUSSEN DIE REGERING VAN DIE REPUBLIEK VAN SUID-AFRIKA EN DIE REGERING VAN DIE KONINKRYK VAN LESOTHO VIR DIE VERMYDING VAN DUBBELE BELASTING EN DIE VOORKOMING VAN FISKALE ONTDUIKING MET BETREKKING TOT BELASTINGS OP INKOMSTE

## Aanhef

Die Regering van die Republiek van Suid-Afrika en die Regering van die Koninkryk van Lesotho het, uit 'n begeerte om die ekonomiese bande tussen die twee lande te bevorder en versterk,

Soos volg ooreengekom:

## Artikel 1

### Persoonlike Omvang

Hierdie Ooreenkoms is van toepassing op persone wat inwoners van een van of van albei die Kontrakterende State is.

## Artikel 2

### Belastings Gedek

1. Hierdie Ooreenkoms is van toepassing op belastinge op inkomste opgelê ten behoeve van 'n Kontrakterende Staat of sy staatkundige onderverdelings, ongeag die wyse waarop dit gehef word.

2. As belastinge op inkomste word geag alle belastinge gehef op totale inkomste of op bestanddele van inkomste.

3. Die bestaande belastinge waarop hierdie Ooreenkoms van toepassing is, is in die besonder:

(a) in Lesotho, die belastinge gehef ingevolge die Inkomstebelastingbevel, 1993 (Bevel No 9 van 1993), soos op die datum van ondertekening van hierdie Ooreenkoms;

(hierna "Lesotho belasting" genoem); en

(b) in Suid-Afrika:

- (i) die normale belasting;
- (ii) die belasting op buitelandse aandeelhouders; en
- (iii) die sekondêre belasting op maatskappye;

(hierna "Suid-Afrikaanse belasting" genoem).

4. Hierdie Ooreenkoms is ook van toepassing op enige ander belastinge van 'n wesenlik soortgelyke aard wat na die datum van ondertekening van die Ooreenkoms bykomend by of in plaas van die bestaande belastinge opgelê word.

5. Die bevoegde owerhede van die Kontrakterende State stel mekaar in kennis van enige wesenlike veranderings wat aan hulle onderskeie belastingwette aangebring is en, indien dit wenslik is dat enige Artikel van hierdie Ooreenkoms gewysig moet word sonder dat die algemene beginsels daarvan aangetas word, word die nodige wysigings met onderlinge instemming aangebring deur middel van die Uitruil van Notas.

**Article 3****General Definitions**

1. In this Agreement, unless the context otherwise requires:

- (a) the term "Lesotho" means the sovereign kingdom of Lesotho comprising all the areas that immediately before 4 October 1966 were comprised in the former colony of Basutoland together with such other areas that may, in accordance with international law, be declared by an Act of the Lesotho Parliament to form part of Lesotho; and
- (b) the term "South Africa" means the Republic of South Africa and, when used in a geographical sense, includes the territorial sea thereof as well as any area outside the territorial sea, including the continental shelf, which has been or may hereafter be designated, under the laws of South Africa and in accordance with international law, as an area within which South Africa may exercise sovereign rights or jurisdiction;
- (c) the terms "a Contracting State" and "the other Contracting State" mean Lesotho or South Africa as the context requires;
- (d) the term "company" means any body corporate or any entity which is treated as a company or body corporate for tax purposes;
- (e) the term "competent authority" means:
  - (i) in Lesotho, the Commissioner of Income Tax or his authorised representative; and
  - (ii) in South Africa, the Commissioner for Inland Revenue or his authorised representative;
- (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 "international traffic" means any transport by ship, aircraft or rail or road transport vehicle operated by an enterprise which has its place of effective management in a Contracting State, except when the ship, aircraft or rail or road transport vehicle is operated solely between places in the other Contracting State;
- (h) the term "nationals" means all individuals having the citizenship of a Contracting State and all legal persons, partnerships, associations and other entities deriving their status as such from the laws in force in a Contracting State; and
- (i) the term "person" includes an individual, a company and any other body of persons which is treated as an entity for tax purposes.

2. In the application of the provisions of this Agreement by a Contracting State, any term not otherwise defined herein shall, unless the context otherwise requires, have the meaning which it has under the laws of that State concerning the taxes which are the subject of this Agreement.

**Article 4****Resident**

1. For the purposes of this Agreement the term "resident of a Contracting State" means:

- (a) in Lesotho, any person who, under the laws of Lesotho, is liable to tax therein by reason of his residence, place of management or any other criterion of a similar nature; and
- (b) in South Africa, any individual who is ordinarily resident in South Africa and any other person which has its place of effective management in South Africa.

**Artikel 3****Algemene Woordomskrywings**

1. In hierdie Ooreenkoms, tensy die samehang anders vereis:

- (a) beteken die uitdrukking "Lesotho" die soewereine koninkryk van Lesotho, insluitende al die gebiede wat onmiddellik voor 4 Oktober 1966 deel was van die vorige kolonie van Basoetoland tesame met sodanige ander gebiede wat, ooreenkomstig die volkereg, deur 'n Wet van die Lesotho Parlement as deel van Lesotho verklaar word; en
- (b) beteken die uitdrukking "Suid-Afrika" die Republiek van Suid-Afrika en, wanneer in geografiese verband gebruik, ook die territoriale waters daarvan asook enige deel buite die territoriale waters, insluitende die kontinentale plat, wat ingevolge die reg van Suid-Afrika en ooreenkomstig die volkereg aangewys is of hierna aangewys mag word as 'n deel waarbinne Suid-Afrika soewereine regte of jurisdiksie mag uitoefen;
- (c) beteken die uitdrukking "n Kontrakterende Staat" en "die ander Kontrakterende Staat" Lesotho of Suid-Afrika, na gelang die samehang vereis;
- (d) beteken die uitdrukking "maatskappy" enige regspersoon of enige entiteit wat vir belastingdoeleindes as 'n maatskappy of regspersoon behandel word;
- (e) beteken die uitdrukking "bevoegde owerheid":
  - (i) in Lesotho, die Kommissaris van Inkomstebelasting of sy gemagtigde verteenwoordiger; en
  - (ii) in Suid-Afrika, die Kommissaris van Binnelandse Inkomste of sy gemagtigde verteenwoordiger;
- (f) beteken die uitdrukking "onderneming van 'n Kontrakterende Staat" en "onderneming van die ander Kontrakterende Staat" onderskeidelik 'n onderneming bedryf deur 'n inwoner van 'n Kontrakterende Staat en 'n onderneming bedryf deur 'n inwoner van die ander Kontrakterende Staat;
- (g) beteken die uitdrukking "internasionale verkeer" enige vervoer per skip, vliegtuig of spoor- of padvervoervoertuig bedryf deur 'n onderneming waarvan die plek van effektiewe bestuur in 'n Kontrakterende Staat geleë is, behalwe wanneer die skip, vliegtuig of spoor- of padvervoervoertuig slegs tussen plekke in die ander Kontrakterende Staat bedryf word;
- (h) beteken die uitdrukking "burgers" alle individue wat burgerskap van 'n Kontrakterende Staat besit en alle regspersone, vennootskappe, verenigings en ander entiteite wat hulle status as sodanig verkry van die wette wat in 'n Kontrakterende Staat van krag is; en
- (i) beteken die uitdrukking "persoon" 'n individu, 'n maatskappy en enige ander liggaam van persone wat vir belastingdoeleindes as 'n entiteit behandel word.

2. By die toepassing van die bepalings van hierdie Ooreenkoms deur 'n Kontrakterende Staat het 'n uitdrukking wat nie andersins omskryf is nie, tensy die samehang anders vereis, die betekenis wat daaraan geheg word deur daardie Staat se wette betreffende die belastingen waarvoor hierdie Ooreenkoms handel.

**Artikel 4****Inwoner**

1. By die toepassing van hierdie Ooreenkoms beteken die uitdrukking "inwoner van 'n Kontrakterende Staat:

- (a) in Lesotho, 'n persoon wat kragtens die wette van Lesotho daarin belastingpligtig is uit hoofde van sy verblyf, plek van bestuur of enige ander soortgelyke maatstaf; en
- (b) in Suid-Afrika, 'n individu wat gewoonlik in Suid-Afrika woonagtig is en enige ander persoon wie se plek van effektiewe bestuur in Suid-Afrika is.

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 State in which he has a permanent home available to him. If he has a permanent home available to him in both 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 State in which he has his centre of vital interests cannot be determined, or if he does not have a permanent home available to him in either 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 States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
- (d) if he is a national of both 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 State in which its place of effective management is situated.

## Article 5

### *Permanent Establishment*

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of the 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) a building site, or a construction, installation or assembly project which exists for a period of more than six months; and
- (h) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the Contracting State for a period or periods aggregating more than six months within any period of twelve months.

3. 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;

2. Waar 'n individu uit hoofde van die bepalings van paragraaf 1 'n inwoner van beide Kontrakterende State is, word sy status soos volg bepaal:

- (a) hy word geag 'n inwoner te wees van die Staat waarin hy 'n permanente tuiste tot sy beskikking het. Indien hy in beide State 'n permanente tuiste tot sy beskikking het, word hy geag 'n inwoner te wees van die Staat waarmee sy persoonlike en ekonomiese betrekkinge die nouste is (tuiste van lewensbelange);
- (b) indien nie bepaal kan word in watter Staat hy sy tuiste van lewensbelange het nie, of indien hy nie 'n permanente tuiste in enigiens van die State tot sy beskikking het nie, word hy geag 'n inwoner te wees van die Staat waarin hy 'n gebruikelike verblyfplek het;
- (c) indien hy 'n gebruikelike verblyfplek in beide State het, of in geeneen van hulle nie, word hy geag 'n inwoner te wees van die Staat waarvan hy 'n burger is;
- (d) indien hy 'n burger van beide State is, of van geeneen van hulle nie, moet die bevoegde owerhede van die Kontrakterende State die saak deur middel van onderlinge ooreenkoms besleg.

3. Waar uit hoofde van die bepalings van paragraaf 1 'n ander persoon as 'n individu 'n inwoner van beide Kontrakterende State is, word hy geag 'n inwoner te wees van die Staat waarin sy plek van effektiewe bestuur geleë is.

## Artikel 5

### Permanente Saak

1. By die toepassing van hierdie Ooreenkoms beteken die uitdrukking "permanente saak" 'n vaste besigheidsplek waardeur die besigheid van die onderneming uitsluitlik of gedeeltelik bedryf word.

2. Die uitdrukking "permanente saak" sluit veral in:

- (a) 'n plek van bestuur;
- (b) 'n tak;
- (c) 'n kantoor;
- (d) 'n fabriek;
- (e) 'n werkwinkel;
- (f) 'n myn, 'n olie- of gasbron, 'n steengroef of enige ander plek van ontginning van natuurlike hulpbronne;
- (g) 'n bouterrein of 'n konstruksie-, installasie- of monterprojek wat vir 'n tydperk van meer as ses maande bestaan; en
- (h) die verskaffing van dienste, insluitende konsultasiedienste, deur 'n onderneming deur bemiddeling van werknemers of ander personeel wat deur daardie onderneming vir sodanige doel in diens geneem is, maar slegs waar bedrywighede van daardie aard (vir dieselfde of 'n verwante projek) binne die Kontrakterende Staat voortduur vir 'n tydperk of tydperke wat altesaam ses maande binne 'n tydperk van twaalf maande te bowe gaan.

3. Die uitdrukking "permanente saak" word geag nie die volgende in te sluit nie:

- (a) die gebruik van fasiliteite slegs met die doel om goedere of handelsware wat aan die onderneming behoort op te berg, te vertoon of af te lewer;
- (b) die instandhouding van 'n voorraad goedere of handelsware wat aan die onderneming behoort, slegs met die doel om dit op te berg, te vertoon of af te lewer;
- (c) die instandhouding van 'n voorraad goedere of handelsware wat aan die onderneming behoort, slegs vir die doel van verwerking deur 'n ander onderneming;

- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise; and
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

4. An enterprise of a Contracting State, notwithstanding that it has no fixed place of business in the other Contracting State, shall be deemed to have a permanent establishment in that other State if it carries on supervisory activities therein in connection with a construction, installation or assembly project which is being undertaken in that other State for a period of more than six months.

5. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State (other than an agent of an independent status to whom paragraph 6 applies) notwithstanding that he has no fixed place of business in the first-mentioned State shall be deemed to be a permanent establishment in that State if -

- (a) he has, and habitually exercises, a general authority in the first-mentioned State to conclude contracts in the name of the enterprise; or
- (b) he maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise; or
- (c) he regularly secures orders in the first-mentioned State wholly or almost wholly for the 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 as 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, is taxable in the Contracting State in which such property is situated.

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

- (d) die instandhouding van 'n vaste besigheidsplek slegs met die doel om vir die onderneming goedere of handelsware aan te koop of inligting in te win;
- (e) die instandhouding van 'n vaste besigheidsplek slegs met die doel om vir die onderneming te adverteer, inligting te verskaf, wetenskaplike navorsing te doen of vir soortgelyke bedrywighede wat van 'n voorlopige of bykomstige aard is; en
- (f) die instandhouding van 'n vaste besigheidsplek slegs vir 'n kombinasie van die bedrywighede in subparagraawe (a) tot (e) genoem, met dien verstande dat die algehele bedrywighede van die vaste besigheidsplek voortspruitend uit hierdie kombinasie van 'n voorlopige of bykomstige aard is.

4. 'n Onderneming van 'n Kontrakterende Staat word, hoewel dit nie 'n vaste besigheidsplek in die ander Kontrakterende Staat het nie, geag 'n permanente saak in daardie ander Staat te hê indien dit toesighoudende bedrywighede daarin onderneem in verband met 'n konstruksie-, installasie- of monteerprojek wat in daardie ander Staat onderneem word vir 'n tydperk van meer as ses maande.

5. 'n Persoon wat in 'n Kontrakterende Staat namens 'n onderneming van die ander Kontrakterende Staat optree (uitgesonderd 'n agent met 'n onafhanklike status op wie paragraaf 6 van toepassing is) word, hoewel hy nie 'n vaste besigheidsplek in eersgenoemde Staat het nie, geag 'n permanente saak in daardie Staat te wees indien -

- (a) hy 'n algemene magtiging in eersgenoemde Staat besit, en dit gewoonlik uitoefen, om kontrakte in die naam van die onderneming te sluit; of
- (b) hy in eersgenoemde Staat 'n voorraad goedere of handelsware in stand hou wat aan die onderneming behoort waaruit hy gereeld bestellings uitvoer ten behoeve van die onderneming; of
- (c) hy gereeld bestellings verkry in eersgenoemde Staat uitsluitlik of byna uitsluitlik vir die onderneming.

6. 'n Onderneming word nie geag 'n permanente saak in 'n Kontrakterende Staat te hê nie bloot omdat hy in daardie Staat besigheid dryf deur bemiddeling van 'n makelaar, algemene kommissie-agent of enige ander agent met onafhanklike status, mits sodanige persone in die gewone loop van hul besigheid optree.

7. Die feit dat 'n maatskappy wat 'n inwoner van 'n Kontrakterende Staat is, beheer het oor of beheer word deur 'n maatskappy wat 'n inwoner van die ander Kontrakterende Staat is, of wat in daardie ander Staat besigheid dryf (hetsy deur bemiddeling van 'n permanente saak of andersins) beteken nie op sigself dat enigeen van die maatskappye 'n permanente saak van die ander is nie.

## Artikel 6

### **Inkomste uit Onroerende Eiendom**

1. Inkomste verkry deur 'n inwoner van 'n Kontrakterende Staat uit onroerende eiendom, met inbegrip van inkomste uit landbou of bosbou, is in die Kontrakterende Staat waarin sodanige eiendom geleë is, belasbaar.

2. Die uitdrukking "onroerende eiendom" word omskryf ooreenkomstig die reg van die Kontrakterende Staat waarin die betrokke eiendom geleë is. Die uitdrukking sluit in ieder geval in eiendom wat bykomend by onroerende eiendom is, lewende hawe en toerusting wat in landbou en bosbou gebruik word, regte waarop die bepalinge van die algemene reg betreffende vaste eiendom van toepassing is, vruggebruik van onroerende eiendom en regte op wisselende of vaste betalings as vergoeding vir die ontginning, of die reg op ontginning, van mineraalafsettings, bronne en ander natuurlike hulpbronne. Skepe, bote en vliegtuie word nie geag onroerende eiendom te wees nie.

3. Die bepalinge van paragraaf 1 is van toepassing op inkomste verkry uit die regstreekse gebruik, verhuring of gebruik in enige ander vorm, van onroerende eiendom.

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 permanent establishment including executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere.

4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the 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 Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

### Article 8

#### **International Transport**

1. Profits from the operation or rental of ships, aircraft or rail or road transport vehicles in international traffic and the rental of containers and related equipment which is incidental to the operation of ships, aircraft or rail or road transport vehicles in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. Die bepalings van paragrawe 1 en 3 is ook van toepassing op die inkomste uit onroerende eiendom van 'n onderneming en op inkomste uit onroerende eiendom wat by die verrigting van onafhanklike persoonlike dienste gebruik word.

## Artikel 7

### Besigheidswinste

1. Die winste van 'n onderneming van 'n Kontrakterende Staat is slegs in daardie Staat belasbaar, tensy die onderneming besigheid dryf in die ander Kontrakterende Staat deur bemiddeling van 'n permanente saak wat daarin geleë is. Indien die onderneming besigheid dryf soos gemeld, kan die winste van die onderneming in die ander Staat belas word, maar dan slegs soveel daarvan as wat aan daardie permanente saak toeskryfbaar is.

2. Behoudens die bepalings van paragraaf 3, waar 'n onderneming van 'n Kontrakterende Staat in die ander Kontrakterende Staat besigheid dryf deur bemiddeling van 'n permanente saak wat daarin geleë is, word daar in elke Kontrakterende Staat aan daardie permanente saak die winste toegeskryf wat hy na verwagting sou kon behaal as hy 'n afsonderlike en aparte onderneming was wat hom met dieselfde of soortgelyke bedrywighede onder dieselfde of soortgelyke omstandighede besig hou en heeltemal onafhanklik met die onderneming waarvan hy 'n permanente saak is, sake doen.

3. By die vasstelling van die winste van 'n permanente saak word as aftrekkings toegelaat uitgawes wat vir doeleindes van die permanente saak aangegaan is, met inbegrip van bestuurs- en algemene administrasiekoste aldus aangegaan, hetsy in die Kontrakterende Staat waarin die permanente saak geleë is, of elders.

4. Vir sover dit in 'n Kontrakterende Staat gebruiklik was om die winste wat aan 'n permanente saak toegeskryf moet word, vas te stel volgens die grondslag van 'n toedeling van die totale winste van die onderneming aan sy onderskeie onderdele, belet niks in paragraaf 2 daardie Kontrakterende Staat om die winste wat belas moet word, deur sodanige toedeling as wat gebruiklik mag wees, vas te stel nie. Die metode van toedeling wat gebruik word, moet egter sodanig wees dat die resultaat in ooreenstemming is met die beginsels in hierdie Artikel vervat.

5. Geen winste word aan 'n permanente saak toegeskryf uit hoofde van die blote aankoop deur daardie permanente saak van goedere of handelsware vir die onderneming nie.

6. By die toepassing van die voorgaande paragrawe, tensy daar goeie en afdoende rede tot die teendeel is, word die winste wat aan die permanente saak toegeskryf moet word, jaar na jaar volgens dieselfde metode vasgestel.

7. Waar winste inkomste-items insluit wat afsonderlik in ander Artikels van hierdie Ooreenkoms behandel word, word die bepalings van daardie Artikels nie deur die bepalings van hierdie Artikel geraak nie.

## Artikel 8

### Internasionale Vervoer

1. Winste uit die bedryf of verhuring van skepe, vliegtuie of spoor- of padvervoervoertuie in internasionale verkeer en die verhuring van houters en verwante uitrusting wat bykomstig is by die bedryf van skepe, vliegtuie of spoor- of padvervoervoertuie in internasionale verkeer is belasbaar slegs in die Kontrakterende Staat waarin die plek van effektiewe bestuur van die onderneming geleë is.

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

3. If the place of effective management of a road transport enterprise cannot be determined, it shall be deemed to be situated in the Contracting State of which the operator of such road transport enterprise is a resident.

4. The provisions of paragraph 1 shall also apply to profits 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 Agreement 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. Indien die plek van effektiewe bestuur van 'n skeepvaartonderneming aan boord van 'n skip of boot is, word dit geag geleë te wees in die Kontrakterende Staat waarin die tuishawe van die skip of boot geleë is, of, indien daar geen sodanige tuishawe is nie, in die Kontrakterende Staat waarvan die operateur van die skip of boot 'n inwoner is.

3. Indien die plek van effektiewe bestuur van 'n padvervoeronderneming nie bepaal kan word nie, word dit geag geleë te wees in die Kontrakterende Staat waarvan die operateur van sodanige padvervoeronderneming 'n inwoner is.

4. Die bepalings van paragraaf 1 is ook van toepassing op winste ten opsigte van die deelname in 'n winsdeling, 'n gesamentlike besigheid of 'n internasionale bedryfsagentskap.

## Artikel 9

### Verwante Ondernemings

#### 1. Waar:

- (a) 'n onderneming van 'n Kontrakterende Staat regstreeks of onregstreeks in die bestuur van, beheer oor of kapitaal van 'n onderneming van die ander Kontrakterende Staat deel het; of
- (b) dieselfde persone regstreeks of onregstreeks in die bestuur van, beheer oor of kapitaal van 'n onderneming van 'n Kontrakterende Staat en 'n onderneming van die ander Kontrakterende Staat deel het,

en in enigeen van die gevalle voorwaardes tussen die twee ondernemings met betrekking tot hul handels- of finansiële verhoudings gestel of opgelê word wat verskil van dié wat tussen onafhanklike ondernemings gestel sou word, kan enige winste wat by ontstentenis van daardie voorwaardes aan een van die ondernemings sou toegeval het, maar as gevolg van daardie voorwaardes nie aldus toegeval het nie, by die winste van daardie onderneming ingesluit en dienoreenkomstig belas word.

2. Waar 'n Kontrakterende Staat by die winste van 'n onderneming van daardie Staat winste insluit - en dit dienoreenkomstig belas - waarop 'n onderneming van die ander Kontrakterende Staat in daardie ander Staat belas is en die winste aldus ingesluit winste is wat aan die onderneming van eersgenoemde Staat sou toegeval het indien die voorwaardes tussen die twee ondernemings ooreengekom dieselfde sou gewees het as dié wat tussen twee onafhanklike ondernemings ooreengekom sou gewees het, maak daardie ander Staat 'n toepaslike aanpassing aan die bedrag van die belasting daarin gehef op sodanige winste. By die bepaling van sodanige aanpassing word die ander bepalings van hierdie Ooreenkoms behoorlik in ag geneem en die bevoegde owerhede van die Kontrakterende State raadpleeg mekaar indien nodig.

## Artikel 10

### Dividende

1. Dividende wat deur 'n maatskappy wat 'n inwoner van 'n Kontrakterende Staat is aan 'n inwoner van die ander Kontrakterende Staat betaal word, kan in daardie ander Staat belas word.

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 to the beneficial owner shall not exceed 15 per cent of the gross amount of the dividends.

The competent authorities of the Contracting States shall settle the mode of application of this limitation by mutual agreement.

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

3. The term "dividends" as used in this Article means income from shares or other rights participating in profits (not being debt-claims), 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 Contracting 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 a 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, no tax may be imposed on the beneficial owner in that other State on the dividends paid by the company except in so far as such dividends are paid to a resident of that other State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

6. Nothing in this Agreement shall be construed as preventing a Contracting State from imposing an income tax (referred to as a "branch profits tax") on the repatriated income of a company which is a resident of the other Contracting State in addition to the income tax imposed on the chargeable income of the company; provided that any branch profits tax so imposed shall not exceed 15 per cent of the amount of the repatriated income.

## 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 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. The competent authorities of the Contracting States shall settle the mode of application of this limitation by mutual agreement.

2. Sodanige dividende mag egter ook in die Kontrakterende Staat waarvan die maatskappy wat die dividende betaal 'n inwoner is, en ooreenkomstig die wette van daardie Staat, belas word, maar indien die ontvanger die bevoordeelde eienaar van die dividende is, is die belasting wat die bevoordeelde eienaar aldus opgelê word nie meer as 15 persent van die bruto bedrag van die dividende nie.

Die bevoegde owerhede van die Kontrakterende State besleg die wyse van toepassing van hierdie beperking deur onderlinge ooreenkoms.

Hierdie paragraaf raak nie die belasting van die maatskappy ten opsigte van die winste waaruit die dividende betaal word nie.

3. Die uitdrukking "dividende" soos in hierdie Artikel gebesig, beteken inkomste uit aandele of ander regte wat in winste deelneem (wat nie skuldeise is nie), asook inkomste uit ander regs persoonsooreenkomste wat aan dieselfde belastingbehandeling as inkomste uit aandele onderwerp word deur die wette van die Kontrakterende Staat waarvan die maatskappy wat die uitkering doen 'n inwoner is.

4. Die bepalings van paragrawe 1 en 2 is nie van toepassing nie indien die bevoordeelde eienaar van die dividende, synde 'n inwoner van 'n Kontrakterende Staat, besigheid dryf in die ander Kontrakterende Staat waarvan die maatskappy wat die dividende betaal 'n inwoner is, deur bemiddeling van 'n permanente saak daarin geleë, of in daardie ander Staat onafhanklike persoonlike dienste lewer vanaf 'n vaste basis daarin geleë, en die aandeelbesit ten opsigte waarvan die dividende betaal word effektief verbonde is met sodanige permanente saak of vaste basis. In sodanige geval is die bepalings van Artikel 7 of Artikel 14, na gelang van die geval, van toepassing.

5. Waar 'n maatskappy wat 'n inwoner van 'n Kontrakterende Staat is winste of inkomste uit die ander Kontrakterende Staat verkry, word geen belasting op die bevoordeelde eienaar in daardie ander Staat op die dividende wat deur die maatskappy betaal word, gehef nie, behalwe vir sover sodanige dividende betaal word aan 'n inwoner van daardie ander Staat of vir sover die aandeelbesit ten opsigte waarvan die dividende betaal word effektief verbonde is met 'n permanente saak of vaste basis in daardie ander Staat geleë, en hef ook nie belasting op onuitgekeerde winste op die maatskappy se onuitgekeerde winste nie, selfs al bestaan die betaalde dividende of onuitgekeerde winste uitsluitlik of gedeeltelik uit winste of inkomste wat in sodanige ander Staat ontstaan.

6. Hierdie Ooreenkoms word nie uitgelê as sou dit 'n Kontrakterende Staat verhoed om 'n inkomstebelasting (verwys na as 'n takwinstbelasting) te hef op die gerepatrieerde inkomste van 'n maatskappy wat 'n inwoner van die ander Kontrakterende Staat is, bykomend tot die inkomstebelasting op die hefbare inkomste van die maatskappy opgelê; met dien verstande dat enige takwinstbelasting so opgelê nie 15 persent van die bedrag van die gerepatrieerde inkomste te bowe sal gaan nie.

## Artikel 11

### Rente

1. Rente wat in 'n Kontrakterende Staat ontstaan en aan 'n inwoner van die ander Kontrakterende Staat betaal word, kan in daardie ander Staat belas word.

2. Sodanige rente kan egter ook in die Kontrakterende Staat waarin dit ontstaan en ooreenkomstig die wette van daardie Staat belas word, maar indien die ontvanger die bevoordeelde eienaar van die rente is, gaan die belasting aldus gehef nie 10 persent van die bruto bedrag van die rente te bowe nie. Die bevoegde owerhede van die Kontrakterende State besleg die wyse van toepassing van hierdie beperking deur onderlinge ooreenkoms.

3. 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 and all other income which is treated as interest by the taxation laws of the Contracting State in which it arises. Penalty charges for late payment shall not be regarded as interest for the purposes of this Article.

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

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

## **Article 12**

### **Royalties**

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

2. However, such royalties may 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 10 per cent of the gross amount of the royalties.

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

3. Die uitdrukking "rente", soos in hierdie Artikel gebesig, beteken inkomste uit alle soorte skuldeise, hetsy gesekureer deur verband al dan nie en hetsy dit 'n reg inhou om in die skuldenaar se winste te deel al dan nie, en in die besonder, inkomste uit staatseffekte en inkomste uit obligasies of skuldbriewe, insluitende premies en pryse aan sodanige effekte, obligasies of skuldbriewe verbonde en alle ander inkomste wat as rente behandel word deur die belastingwette van die Kontrakterende Staat waarin dit ontstaan. Boeteheffings vir laat betaling word vir doeleindes van hierdie Artikel nie as rente beskou nie.

4. Die bepalings van paragrawe 1 en 2 is nie van toepassing nie indien die bevoordeelde eienaar van die rente, synde 'n inwoner van 'n Kontrakterende Staat, in die ander Kontrakterende Staat waarin die rente ontstaan besigheid dryf deur bemiddeling van 'n permanente saak daarin geleë, of in daardie ander Staat onafhanklike persoonlike dienste lewer vanaf 'n vaste basis daarin geleë, en die skuldeis ten opsigte waarvan die rente betaal word effektief verbonde is met sodanige permanente saak of vaste basis. In sodanige geval is die bepalings van Artikel 7 of Artikel 14, na gelang van die geval, van toepassing.

5. Rente word geag in 'n Kontrakterende Staat te ontstaan wanneer die betaler daardie Staat self, 'n staatkundige onderverdeling, 'n plaaslike owerheid of 'n inwoner van daardie Staat is. Waar die persoon wat die rente betaal, hetsy hy 'n inwoner van 'n Kontrakterende Staat is al dan nie, egter in 'n Kontrakterende Staat 'n permanente saak of 'n vaste basis het in verband waarmee die skuld waarop die rente betaal word, aangegaan is, en sodanige rente deur daardie permanente saak of vaste basis gedra word, word sodanige rente geag te ontstaan het in die Staat waarin die permanente saak of vaste basis geleë is.

6. Waar, as gevolg van 'n besondere verband tussen die betaler en die bevoordeelde eienaar of tussen albei van hulle en 'n ander persoon, die bedrag van die rente wat betaal word, met inagneming van die skuldeis ten opsigte waarvan dit betaal word, die bedrag te bowe gaan waaroor die betaler en die bevoordeelde eienaar by ontstentenis van sodanige verband sou ooreengekom het, is die bepalings van hierdie Artikel slegs op laasgenoemde bedrag van toepassing. In sodanige geval bly die oormatige deel van die betalings ooreenkomstig die wette van elk van die Kontrakterende State belasbaar, met behoorlike inagneming van die ander bepalings van hierdie Ooreenkoms.

## Artikel 12

### Tantièmes

1. Tantièmes wat in 'n Kontrakterende Staat ontstaan en aan 'n inwoner van die ander Kontrakterende Staat betaal word, kan in daardie ander Staat belas word.

2. Sodanige tantièmes kan egter ook in die Kontrakterende Staat waarin hulle ontstaan en ooreenkomstig die wette van daardie Staat belas word, maar indien die ontvanger die bevoordeelde eienaar van die tantièmes is, gaan die belasting aldus gehêf nie 10 persent van die bruto bedrag van die tantièmes te bowe nie.

3. Die uitdrukking "tantièmes", soos in hierdie Artikel gebesig, beteken betalings van enige aard ontvang as vergoeding vir die gebruik van, of die reg op die gebruik van, enige kopiereg van 'n letterkundige, kuns- of wetenskaplike werk (met inbegrip van kinematograaffilms en films, bande of skywe vir radio- of televisie-uitsending), enige patent, handelsmerk, ontwerp of model, rekenaarprogram, plan, geheime formule of proses, of vir die gebruik van, of die reg op die gebruik van, inligting aangaande industriële, handels- of wetenskaplike ondervinding.

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

5. 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, 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 a 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 Agreement.

6. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base with which the right or property in respect of which the royalties are paid is effectively connected, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

### Article 13

#### Technical Fees

1. Technical fees 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 technical fees may also be taxed in the Contracting State in which they arise and according to the law of that State, but if the beneficial owner is subject to tax in respect of the technical fees in the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the technical fees.

3. The term "technical fees" as used in this Article means payments of any kind to any person, other than to an employee of the person making the payments, in consideration for any services of a technical, managerial or consultancy nature.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the technical fees, being a resident of a Contracting State, carries on business in the other Contracting State in which the technical fees arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the technical fees are 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. If a resident of a Contracting State, who receives technical fees which arise in the other Contracting State and who is subject to tax in respect thereof in the first-mentioned State, so elects for any year of assessment, the tax chargeable in respect of those technical fees in the State in which they arise shall be calculated as if he had a permanent establishment or a fixed base in the last-mentioned State and as if those technical fees were taxable in accordance with Article 7 or Article 14, as the case may be, as profits attributable to that permanent establishment or fixed base.

4. Die bepalings van paragraawe 1 en 2 is nie van toepassing nie indien die bevoordeelde eienaar van die tantièmes, synde 'n inwoner van 'n Kontrakterende Staat, in die ander Kontrakterende Staat waarin die tantièmes ontstaan besigheid dryf deur bemiddeling van 'n permanente saak daarin geleë, of in daardie ander Staat onafhanklike persoonlike dienste lewer vanaf 'n vaste basis daarin geleë, en die reg of eiendom ten opsigte waarvan die tantièmes betaal word, effektief verbonde is met sodanige permanente saak of vaste basis. In sodanige geval is die bepalings van Artikel 7 of Artikel 14, na gelang van die geval, van toepassing.

5. Waar, as gevolg van 'n besondere verband tussen die betaler en die bevoordeelde eienaar of tussen albei van hulle en 'n ander persoon, die bedrag van die tantièmes betaal, met inagneming van die gebruik, reg of inligting waarvoor dit betaal word, die bedrag te bowe gaan waarvoor die betaler en die bevoordeelde eienaar sou ooreengekom het by ontstentenis van sodanige verband, is die bepalings van hierdie Artikel slegs op laasgenoemde bedrag van toepassing. In sodanige geval bly die oormatige deel van die betalings ooreenkomstig die wette van elk van die Kontrakterende State belasbaar, met behoorlike inagneming van die ander bepalings van hierdie Ooreenkoms.

6. Tantièmes word geag in 'n Kontrakterende Staat te ontstaan wanneer die betaler daardie Staat self, 'n staatkundige onderverdeling, 'n plaaslike owerheid of 'n inwoner van daardie Staat is. Waar die persoon wat die tantièmes betaal, hetsy hy 'n inwoner van 'n Kontrakterende Staat is al dan nie, egter in 'n Kontrakterende Staat 'n permanente saak of 'n vaste basis het waarmee die reg of eiendom ten opsigte waarvan die tantièmes betaal word, effektief verbonde is, en sodanige tantièmes deur sodanige permanente saak of vaste basis gedra word, word sodanige tantièmes geag te ontstaan in die Staat waarin die permanente saak of vaste basis geleë is.

### **Artikel 13**

#### ***Tegniese Gelde***

1. Tegniese gelde wat in 'n Kontrakterende Staat ontstaan en aan 'n inwoner van die ander Kontrakterende Staat betaal word, kan in daardie ander Staat belas word.

2. Sodanige tegniese gelde kan egter ook in die Kontrakterende Staat waarin hulle ontstaan en ooreenkomstig die wette van daardie Staat belas word, maar indien die bevoordeelde eienaar in die ander Kontrakterende Staat belastingpligtig is ten opsigte van die tegniese gelde, gaan die belasting aldus gehef nie 10 persent van die bruto bedrag van die tegniese gelde te bowe nie.

3. Die uitdrukking "tegniese gelde", soos in hierdie Artikel gebesig, beteken betalings van enige aard aan enige persoon, uitgesonderd 'n werknemer van die persoon wat die betaling doen, as vergoeding vir enige dienste van 'n tegniese, bestuurs- of konsulerende aard.

4. Die bepalings van paragraawe 1 en 2 is nie van toepassing nie indien die bevoordeelde eienaar van die tegniese gelde, synde 'n inwoner van 'n Kontrakterende Staat, in die ander Kontrakterende Staat waarin die tegniese gelde ontstaan besigheid dryf deur bemiddeling van 'n permanente saak daarin geleë, of in daardie ander Staat onafhanklike persoonlike dienste lewer vanaf 'n vaste basis daarin geleë, en die tegniese gelde effektief verbonde is met sodanige permanente saak of vaste basis. In sodanige geval is die bepalings van Artikel 7 of Artikel 14, na gelang van die geval, van toepassing.

5. Indien 'n inwoner van 'n Kontrakterende Staat, wat tegniese gelde ontvang wat in die ander Kontrakterende Staat ontstaan en wat ten opsigte daarvan belastingpligtig is in eersgenoemde Staat, dit so verkies ten opsigte van enige jaar van aanslag, word die belasting hefbaar ten opsigte van daardie tegniese gelde in die Staat waarin hulle ontstaan, bereken asof hy 'n permanente saak of vaste basis in laasgenoemde Staat het en asof daardie tegniese gelde belasbaar was ooreenkomstig Artikel 7 of Artikel 14, na gelang van die geval, as winste toeskryfbaar aan daardie permanente saak of vaste basis.

6. Technical fees shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, a local authority or a resident of that State. Where, however, the person paying the technical fees, 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 obligation to pay the technical fees was incurred, and such technical fees are borne by that permanent establishment or fixed base, then such technical fees 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 technical fees paid 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 Agreement.

#### **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 may be taxed in the other Contracting State only to the extent that the services were rendered in that other State, unless he has a fixed base regularly available to him in that other State for the purpose of performing his activities. If he has such a fixed base, the income which is attributable to that fixed base may be taxed in that other State.

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

#### **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, 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 182 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.

6. Tegnieise gelde word geag in 'n Kontrakterende Staat te ontstaan wanneer die betaler daardie Staat self, 'n staatkundige onderverdeling, 'n plaaslike owerheid of 'n inwoner van daardie Staat is. Waar die persoon wat die tegnieise gelde betaal, hetsy hy 'n inwoner van 'n Kontrakterende Staat is al dan nie, egter in 'n Kontrakterende Staat 'n permanente saak of 'n vaste basis het in verband waarmee die verpligting om die tegnieise gelde te betaal aangegaan is, en sodanige tegnieise gelde deur daardie permanente saak of vaste basis gedra word, word sodanige tegnieise gelde geag te ontstaan in die Kontrakterende Staat waarin die permanente saak of vaste basis geleë is.

7. Waar, as gevolg van 'n besondere verband tussen die betaler en die bevoordeelde eienaar of tussen albei van hulle en 'n ander persoon, die bedrag van die betaalde tegnieise gelde om watter rede ook al die bedrag te bowe gaan waaroor die betaler en die bevoordeelde eienaar sou ooreengekom het by ontstentenis van sodanige verband, is die bepalinge van hierdie Artikel slegs op laasgenoemde bedrag van toepassing. In sodanige geval bly die oormatige deel van die betalings ooreenkomstig die wette van elk van die Kontrakterende State belasbaar, met behoorlike inagneming van die ander bepalinge van hierdie Ooreenkoms.

#### **Artikel 14**

##### ***Onafhanklike Persoonlike Dienste***

1. Inkomste verkry deur 'n inwoner van 'n Kontrakterende Staat ten opsigte van professionele dienste of ander werksaamhede van 'n onafhanklike aard kan in die ander Kontrakterende Staat belas word slegs in die mate waarin die dienste in daardie ander Staat gelewer is, tensy hy 'n vaste basis in daardie ander Staat gereeld tot sy beskikking het vir doeleindes van die verrigting van sy bedrywigheide. Indien hy sodanige vaste basis het, kan die inkomste wat aan daardie vaste basis toeskryfbaar is in daardie ander Staat belas word.

2. Die uitdrukking "professionele dienste" sluit in onafhanklike wetenskaplike, letterkundige, kuns-, opvoedkundige of onderwysaktiwiteite, sowel as die onafhanklike aktiwiteite van geneeskundiges, regsgeleerdes, ingenieurs, argitekte, tandartse en rekenmeesters of ander professionele persone.

#### **Artikel 15**

##### ***Afhanklike Persoonlike Dienste***

1. Behoudens die bepalinge van Artikels 16, 18, en 19 is salarisse, lone en ander soortgelyke besoldiging wat deur 'n inwoner van 'n Kontrakterende Staat ten opsigte van 'n diensbetrekking verkry word, slegs in daardie Staat belasbaar, tensy die diensbetrekking in die ander Kontrakterende Staat beoefen word. Indien die diensbetrekking aldus beoefen word, kan die besoldiging wat daaruit verkry word in daardie ander Staat belas word.

2. Ondanks die bepalinge van paragraaf 1 is besoldiging wat deur 'n inwoner van 'n Kontrakterende Staat verkry word ten opsigte van 'n diensbetrekking wat in die ander Kontrakterende Staat beoefen word, slegs in eersgenoemde Staat belasbaar indien:

- (a) die ontvanger teenwoordig is in die ander Staat vir 'n tydperk of tydperke wat nie altesaam 182 dae gedurende enige tydperk van twaalf maande te bowe gaan nie; en
- (b) die besoldiging betaal word deur of namens 'n werkgever wat nie 'n inwoner van die ander Staat is nie; en
- (c) die besoldiging nie gedra word deur 'n permanente saak of 'n vaste basis wat die werkgever in die ander Staat het nie.

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

#### **Article 16**

##### ***Directors' Fees***

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

#### **Article 17**

##### ***Entertainers and Sportsmen***

1. Notwithstanding the provisions of Articles 14 and 15, income derived by entertainers such as theatre, motion picture, radio or television artistes, and musicians, or by sportsmen, from their personal activities as such, may be taxed in the Contracting State in which these activities are exercised.

2. Where income in respect of personal activities exercised by an entertainer or 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.

#### **Article 18**

##### ***Pensions and Annuities***

1. Any pension (other than a pension of the kind referred to in paragraph 2 of Article 19) and any annuity, derived from sources within a Contracting State by an individual who is a resident of the other Contracting State and is subject to tax on the whole or portion thereof in the other State, shall be exempt from tax in the first-mentioned State to the extent that it is subject to tax in the other State.

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

3. Ondanks die voorafgaande bepalings van hierdie Artikel kan besoldiging wat verkry word ten opsigte van 'n diensbetrekking wat beoefen word aan boord van 'n skip, vliegtuig of spoor- of padvervoervoertuig wat in internasionale verkeer bedryf word, in die Kontrakterende Staat waarin die plek van effektiewe bestuur van die onderneming geleë is, belas word.

#### **Artikel 16**

##### ***Direkteursgelde***

Direkteursgelde en soortgelyke vergoeding ontvang deur 'n inwoner van 'n Kontrakterende Staat in sy hoedanigheid van lid van die direksie van 'n maatskappy wat 'n inwoner van die ander Kontrakterende Staat is, kan in daardie ander Staat belas word.

#### **Artikel 17**

##### ***Verhoogkunstenaars en Sportlui***

1. Ondanks die bepalings van Artikels 14 en 15 kan inkomste wat verkry word deur verhoogkunstenaars soos teater-, rolprent-, radio- of televisie-artieste, en musikante, of deur sportlui, uit hul persoonlike bedrywighede as sodanig, belas word in die Kontrakterende Staat waarin dié bedrywighede beoefen word.

2. Waar inkomste ten opsigte van persoonlike bedrywighede wat deur 'n verhoogkunstenaar of 'n sportman in dié hoedanigheid beoefen word, nie aan die verhoogkunstenaar of sportman self toeval nie maar aan 'n ander persoon, kan daardie inkomste, ondanks die bepalings van Artikels 7, 14 en 15, belas word in die Kontrakterende Staat waarin die bedrywighede van die verhoogkunstenaar of sportman beoefen word.

#### **Artikel 18**

##### ***Pensioene en Annuïteite***

1. Enige pensioen (uitgesonderd 'n pensioen van die soort in paragraaf 2 van Artikel 19 vermeld) en enige annuïteit verkry uit bronne binne 'n Kontrakterende Staat deur 'n individu wat 'n inwoner van die ander Kontrakterende Staat is en onderworpe is aan belasting op die volle bedrag of 'n gedeelte daarvan in die ander Staat, is in eersgenoemde Staat van belasting vrygestel in die mate waarin dit in die ander Staat aan belasting onderworpe is.

2. Die uitdrukking "annuïteit" soos in hierdie Artikel gebesig, beteken 'n vermelde bedrag wat periodiek op vermelde tye, gedurende lewe of gedurende 'n gespesifiseerde of vasstelbare tydperk, betaalbaar is ingevolge 'n verpligting om die betalings te doen in ruil vir voldoende en volle vergoeding in geld of geldswaarde.

**Article 19****Government Service**

1. Remuneration (other than pensions) paid by, or out of funds created by, one of the Contracting States, a political subdivision or a local authority thereof to any individual for services rendered to that State, subdivision or authority in the discharge of governmental functions shall be exempt from tax in the other Contracting State if the individual is not ordinarily resident in that other State or is ordinarily resident in that other State solely for the purpose of rendering those services.

2. Any pension paid by, or out of funds created by, a Contracting State, a political subdivision or a local authority thereof to any individual for services rendered to that State, subdivision or authority in the discharge of governmental functions shall be exempt from tax in the other Contracting State in so far as the remuneration for those services was exempt from tax in that other State under paragraph 1 of this Article or would have been so exempt if this Agreement had been in force when the remuneration was paid.

3. The provisions of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the Contracting States, a political subdivision or a local authority thereof.

**Article 20****Students and Business Apprentices**

A student or business apprentice who is present in a Contracting State solely for the purpose of his education or training and who is, or immediately before being so present was, a resident of the other Contracting State, shall be exempt from tax in the first-mentioned State on payments received from outside that first-mentioned State for the purposes of his maintenance, education or training.

**Article 21****Other Income**

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement in respect of which he is subject to tax in that State, shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income 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 a right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

**Artikel 19*****Regeringsdiens***

1. Besoldiging (uitgesonderd pensioene) betaal deur of uit fondse geskep deur een van die Kontrakterende State, 'n staatkundige onderverdeling of 'n plaaslike owerheid daarvan aan 'n individu vir dienste gelewer aan daardie Staat, onderverdeling of owerheid by die uitoefening van regeringsfunksies, is in die ander Kontrakterende Staat van belasting vrygestel indien die individu nie gewoonlik in daardie ander Staat woonagtig is nie of gewoonlik in daardie ander Staat woonagtig is uitsluitlik met die doel om sodanige dienste te lewer.

2. Enige pensioen betaal deur of uit fondse geskep deur 'n Kontrakterende Staat, 'n staatkundige onderverdeling of 'n plaaslike owerheid daarvan aan 'n individu vir dienste gelewer aan daardie Staat, onderverdeling of owerheid by die uitoefening van regeringsfunksies, is in die ander Kontrakterende Staat van belasting vrygestel in die mate waarin die besoldiging vir sodanige dienste vrygestel was van belasting in daardie ander Staat ingevolge paragraaf 1 van hierdie Artikel of aldus vrygestel sou gewees het indien hierdie Ooreenkoms van krag was ten tyde van die betaling van die besoldiging.

3. Die bepalings van hierdie Artikel is nie van toepassing nie op betalings ten opsigte van dienste gelewer in verband met enige handel of besigheid wat deur enigen een van die Kontrakterende State, 'n staatkundige onderverdeling of 'n plaaslike owerheid daarvan bedryf word.

**Artikel 20*****Studente en Besigheidsvakleerlinge***

'n Student of besigheidsvakleerling wat uitsluitlik vir die doel van sy onderrig of opleiding in 'n Kontrakterende Staat teenwoordig is, en wat 'n inwoner is of onmiddellik voordat hy daarheen gegaan het 'n inwoner was van die ander Kontrakterende Staat, is in eersgenoemde Staat vrygestel van belasting op betalings ontvang van buite daardie eersgenoemde Staat vir die doel van sy onderhoud, onderrig of opleiding.

**Artikel 21*****Ander Inkomste***

1. Inkomste-items van 'n inwoner van 'n Kontrakterende Staat, waar dit ook al ontstaan, wat nie in die voorafgaande Artikels van hierdie Ooreenkoms behandel is nie en ten opsigte waarvan hy in daardie Staat aan belasting onderworpe is, is slegs in daardie Staat belasbaar.

2. Die bepalings van paragraaf 1 is nie van toepassing op inkomste nie indien die ontvanger van sodanige inkomste, synde 'n inwoner van 'n Kontrakterende Staat, in die ander Kontrakterende Staat besigheid dryf deur bemiddeling van 'n permanente saak daarin geleë, of in daardie ander Staat onafhanklike persoonlike dienste lewer vanaf 'n vaste basis daarin geleë, en 'n reg of eiendom ten opsigte waarvan die inkomste betaal word effektief met sodanige permanente saak of vaste basis verbonde is. In sodanige geval is die bepalings van Artikel 7 of Artikel 14, na gelang van die geval, van toepassing.

**Article 22*****Elimination of Double Taxation***

Double taxation shall be eliminated as follows:

1. In Lesotho, subject to the provisions of the law of Lesotho, from time to time in force, which relates to the allowance of credit against Lesotho tax of tax paid in a country outside Lesotho (which shall not affect the general principle of this Article), South African tax paid under the law of South Africa and in accordance with this Agreement, whether directly or by deduction, in respect of income derived by a person who is a resident of Lesotho from sources in South Africa shall be allowed as a credit against Lesotho tax payable in respect of that income.

2. In South Africa, taxes paid by South African residents in respect of income taxable in Lesotho, in accordance with the provisions of this Agreement, shall be deducted from the taxes due according to the South African fiscal law. Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Lesotho.

3. As regards the application of the provisions of paragraph 2, it is understood that the amount of tax which is attributable to such income which has been subjected to tax in Lesotho shall be:

- (a) where the tax on such income is computed by applying a proportional rate, the amount of the net income concerned multiplied by the rate which actually applies to that income; and
- (b) where the tax on such income is computed by applying a progressive scale, an amount which bears to the net income concerned the same ratio as the total tax actually payable bears to the total net income which is subject to tax in accordance with South African fiscal law.

4. Any relief from tax by one of the Contracting States provided for in this Agreement shall be inapplicable to the extent that the income to which the relief relates is not subject to tax in the other Contracting State.

**Article 23*****Non-discrimination***

1. The 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 persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

**Artikel 22*****Uitskakeling van Dubbele Belasting***

Dubbele belasting word soos volg uitgeskakel:

1. In Lesotho, behoudens die bepalings van die reg van Lesotho, van tyd tot tyd van krag, met betrekking tot die toestaan van krediet teen Lesotho belasting van belasting in 'n land buite Lesotho betaal (wat nie die algemene beginsel van hierdie Artikel raak nie), word Suid-Afrikaanse belasting ooreenkomstig Suid-Afrikaanse reg betaal en in ooreenstemming met hierdie Ooreenkoms, regstreeks of deur middel van aftrekking, ten opsigte van inkomste verkry deur 'n persoon wat 'n inwoner van Lesotho is vanuit bronne in Suid-Afrika as 'n krediet toegestaan teen die Lesotho belasting betaalbaar ten opsigte van daardie inkomste.

2. In die geval van Suid-Afrika word belasting wat ooreenkomstig die bepalings van hierdie Ooreenkoms deur inwoners van Suid-Afrika betaal word ten opsigte van inkomste wat in Lesotho belasbaar is, afgetrek van die belasting wat ingevolge Suid-Afrikaanse fiskale reg betaalbaar is. Sodanige aftrekking gaan egter nie die gedeelte van die inkomstebelasting, soos bereken voor die aftrekking toegestaan word, wat toeskryfbaar is aan die inkomste wat in Lesotho belas mag word te bowe nie.

3. Wat die toepassing van die bepalings van paragraaf 2 betref, word verstaan dat die belastingbedrag wat toeskryfbaar is aan sodanige inkomste wat in Lesotho aan belasting onderwerp is, sal wees:

- (a) waar die belasting op sodanige inkomste deur die toepassing van 'n proporsionele koers bereken word, die bedrag van die betrokke netto inkomste vermenigvuldig met die koers wat werklik op daardie inkomste van toepassing is; en
- (b) waar die belasting op sodanige inkomste deur die toepassing van 'n progressiewe skaal bereken word, 'n bedrag wat in dieselfde verhouding tot die betrokke netto inkomste staan as die verhouding waarin die totale belasting werklik betaalbaar tot die totale netto inkomste wat ooreenkomstig die fiskale reg van Suid-Afrika aan belasting onderworpe is, staan.

4. Enige verligting van belasting deur een van die Kontrakterende State in hierdie Ooreenkoms voorsien is nie van toepassing nie tot die mate dat die inkomste waarna die verligting verwys, nie in die ander Kontrakterende Staat aan belasting onderhewig is nie.

**Artikel 23*****Nie-diskriminasie***

1. Die burgers van 'n Kontrakterende Staat mag nie in die ander Kontrakterende Staat onderwerp word aan enige belasting of enige vereiste in verband daarmee wat anders is of swaarder druk as die belasting en die daarmee verbonde vereistes waaraan burgers van daardie ander Staat onder dieselfde omstandighede onderworpe is of onderwerp kan word nie. Hierdie bepaling is, ondanks die bepalings van Artikel 1, ook van toepassing op persone wat nie inwoners van een van of van albei die Kontrakterende State is nie.

2. Die belasting op 'n permanente saak wat 'n onderneming van 'n Kontrakterende Staat in die ander Kontrakterende Staat het, mag nie in daardie ander Staat op 'n minder gunstige wyse gehef word as die belasting wat gehef word op ondernemings van daardie ander Staat wat dieselfde bedrywighede beoefen nie.

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

4. Nothing in this Article shall 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.

5. In this Article the term "taxation" means taxes which are the subject of this Agreement.

## Article 24

### *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 this Agreement, 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 23, to that of the Contracting State of which he is 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 this Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

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

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement contemplated in any of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a commission consisting of representatives of the competent authorities of the Contracting States.

3. Ondernemings van 'n Kontrakterende Staat waarvan die kapitaal uitsluitlik of gedeeltelik besit of beheer word, regstreeks of onregstreeks, deur een of meer inwoners van die ander Kontrakterende Staat, mag nie in eersgenoemde Staat onderwerp word aan enige belasting of enige vereiste in verband daarmee wat anders is of swaarder druk as die belasting en die daarmee verbonde vereistes waaraan ander soortgelyke ondernemings van daardie eersgenoemde Staat onderworpe is of onderwerp kan word nie.

4. Hierdie Artikel word nie uitgelê as sou dit 'n Kontrakterende Staat verplig om aan inwoners van die ander Kontrakterende Staat enige persoonlike toelatings, verligtings en verminderings vir belastingdoeleindes uit hoofde van burgerlike status of gesinsverantwoordelikhede toe te staan wat hy aan sy eie inwoners toestaan nie.

5. In hierdie Artikel beteken die uitdrukking "belasting" die belastingen waarvoor hierdie Ooreenkoms handel.

## Artikel 24

### *Prosedure vir Onderlinge Ooreenkoms*

1. Waar 'n persoon van mening is dat die optrede van een van of van albei die Kontrakterende State tot gevolg het of tot gevolg sal hê dat hy nie ooreenkomstig hierdie Ooreenkoms belas word nie, kan hy, ondanks die regsmiddels waarvoor die landsreg van daardie State voorsiening maak, sy saak stel aan die bevoegde owerheid van die Kontrakterende Staat waarvan hy 'n inwoner is of, indien sy saak onder paragraaf 1 van Artikel 23 ressorteer, aan dié van die Kontrakterende Staat waarvan hy 'n burger is. Die saak moet gestel word binne drie jaar vanaf die eerste kennisgewing van die handeling wat aanleiding gee daartoe dat belasting nie ooreenkomstig die bepalings van hierdie Ooreenkoms gehef word nie.

2. Die bevoegde owerheid moet, indien die beswaar vir hom geregverdig voorkom en hy nie self 'n geskikte oplossing kan vind nie, probeer om die saak deur onderlinge ooreenkoms met die bevoegde owerheid van die ander Kontrakterende Staat te besleg ten einde belasting te vermy wat nie in ooreenstemming met hierdie Ooreenkoms is nie. Enige ooreenkoms wat bereik word, word ondanks enige tydsbeperkings ingevolge die landsreg van die Kontrakterende State geïmplementeer.

3. Die bevoegde owerhede van die Kontrakterende State moet probeer om enige moeilikhede of twyfel wat in verband met die uitleg of toepassing van hierdie Ooreenkoms ontstaan, deur onderlinge ooreenkoms uit die weg te ruim. Hulle kan mekaar ook raadpleeg met die oog op die uitskakeling van dubbele belasting in gevalle waarvoor daar nie in hierdie Ooreenkoms voorsiening gemaak word nie.

4. Die bevoegde owerhede van die Kontrakterende State kan regstreeks met mekaar in verbinding tree ten einde tot 'n ooreenkoms te geraak soos in die voorafgaande paragrawe beoog. Wanneer 'n mondelinge wisseling van menings raadsaam geag word ten einde tot 'n ooreenkoms te geraak, kan sodanige meningswisseling plaasvind deur 'n kommissie bestaande uit verteenwoordigers van die bevoegde owerhede van die Kontrakterende State.

**Article 25****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 Agreement or of the domestic laws of the Contracting States concerning taxes covered by this Agreement in so far as the taxation thereunder is not contrary to this Agreement. 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 law 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 this Agreement. 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. The competent authorities shall, through consultation, develop appropriate conditions, methods and techniques concerning the matters in respect of which such exchanges of information shall be made, including, where appropriate, exchanges of information regarding tax avoidance.

3. 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 or the administrative practice of that or of the other Contracting State;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.

**Article 26****Diplomatic Agents and Consular Officers**

Nothing in this Agreement 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 27****Assistance in Recovery**

1. The Contracting States shall, to the extent permitted by their respective domestic law, lend assistance to each other in order to recover the taxes referred to in Article 2 as well as interest and penalties with regard to such taxes, provided that reasonable steps to recover such taxes have been taken by the Contracting State requesting such assistance.

2. Claims which are the subject of requests for assistance shall not have priority over taxes owing in the Contracting State rendering assistance and the provisions of paragraph 1 of Article 25 shall also apply to any information which, by virtue of this Article, is supplied to the competent authority of a Contracting State.

**Artikel 25*****Uitruil van Inligting***

1. Die bevoegde owerhede van die Kontrakterende State ruil sodanige inligting uit as wat nodig is vir die uitvoering van die bepalings van hierdie Ooreenkoms of van die landsreg van die Kontrakterende State aangaande belastings deur hierdie Ooreenkoms gedek vir sover die belasting daarkragtens nie strydig met hierdie Ooreenkoms is nie. Die uitruil van inligting word nie deur Artikel 1 beperk nie. Enige inligting wat 'n Kontrakterende Staat ontvang, word as geheim behandel op dieselfde wyse as inligting wat ingevolge die landsreg van daardie Staat verkry word, en word slegs openbaar gemaak aan persone of owerhede (met inbegrip van howe en administratiewe liggame) betrokke by die aanslaan of invordering van, die afdwing van of vervolging met betrekking tot, of die beslissing van appèlle in verband met, die belastings deur hierdie Ooreenkoms gedek. Sodanige persone of owerhede mag die inligting net vir hierdie doeleindes gebruik. Hulle kan die inligting by openbare hofverrigtinge of by regterlike beslissings openbaar maak.

2. Die bevoegde owerhede moet, deur raadpleging, toepaslike voorwaardes, metodes en tegnieke ontwikkel met betrekking tot die aangeleenthede ten opsigte waarvan sodanige uitruilings van inligting moet plaasvind, insluitende, waar toepaslik, uitruilings van inligting aangaande belastingvermyding.

3. Die bepalings van paragraaf 1 word nie uitgelê nie as sou dit 'n Kontrakterende Staat die verpligting oplê om:

- (a) administratiewe maatreëls uit te voer wat strydig is met die wette of administratiewe praktyk van daardie of van die ander Kontrakterende Staat;
- (b) inligting te verstrek wat nie kragtens die wette of in die normale loop van die administrasie van daardie of van die ander Kontrakterende Staat verkrygbaar is nie;
- (c) inligting te verstrek wat enige handels-, besigheids-, nywerheids-, kommersiële of professionele geheim of handelsproses sou openbaar, of inligting te verstrek waarvan die openbaarmaking strydig met die openbare beleid sou wees.

**Artikel 26*****Diplomatiese Agente en Konsulêre Beamptes***

Niks in hierdie Ooreenkoms raak die fiskale voorregte van diplomatieke agente of konsulêre beamptes ingevolge die algemene reëls van die volkereg of ingevolge die bepalings van spesiale ooreenkomste nie.

**Artikel 27*****Bystand met Invordering***

1. Die Kontrakterende State verleen, in die mate deur hul onderskeie landswette toegelaat, bystand aan mekaar ten einde die belastings in Artikel 2 bedoel te verhaal, asook rente en boetes met betrekking tot sodanige belastings, mits billike stappe om sodanige belastings te verhaal gedoen is deur die Kontrakterende Staat wat sodanige bystand versoek.

2. Eise wat die onderwerp is van versoeke vir bystand geniet nie voorkeur bo die belastings verskuldig in die Kontrakterende Staat wat bystand verleen nie en die bepalings van paragraaf 1 van Artikel 25 is ook van toepassing op enige inligting wat, uit hoofde van hierdie Artikel, aan die bevoegde owerheid van 'n Kontrakterende Staat verskaf word.

3. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of the provisions of this Article.

## Article 28

### Entry into Force

1. Each of the Contracting Parties shall notify to the other the completion of the procedures required by its law for the bringing into force of this Agreement. The Agreement shall enter into force on the date of the later of these notifications.

2. The provisions of this Agreement shall apply:

- (a) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the thirtieth day following the date upon which this Agreement enters into force; and
- (b) with regard to other taxes, in respect of years of assessment beginning on or after the date upon which this Agreement enters into force.

3. The Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income imposed in the Union of South Africa and in Basutoland, between the Government of the Union of South Africa and the Government of Great Britain and Northern Ireland signed in Cape Town on 18 June 1959, shall be terminated with effect from the commencement of any year of assessment or period to which the provisions of this Agreement apply.

## Article 29

### Termination

1. This Agreement shall remain in force indefinitely but either of the Contracting States may terminate the Agreement through the diplomatic channel, by giving to the other Contracting State written notice of termination not later than 30 June of any calendar year starting five years after the year in which the Agreement entered into force.

2. In such event the Agreement shall cease to have effect:

- (a) with regard to taxes withheld at source, in respect of amounts paid or credited after the end of the calendar year in which such notice is given; and
- (b) with regard to other taxes, in respect of taxable years beginning after the end of the calendar year in which such notice is given.

3. Die bevoegde owerhede van die Kontrakterende Staat beslis die wyse van toepassing van die bepalings van hierdie Artikel deur onderlinge ooreenkoms.

## **Artikel 28**

### ***Inwerkingtreding***

1. Elke Kontrakterende Party stel die ander in kennis van die afhandeling van die prosedures wat ingevolge sy reg benodig word om hierdie Ooreenkoms in werking te laat tree. Die Ooreenkoms tree in werking op die datum van die laaste van hierdie kennisgewings.

2. Die bepalings van hierdie Ooreenkoms is van toepassing:

- (a) met betrekking tot belastinge wat by die bron teruggehou word, ten opsigte van bedrae betaal of gekrediteer op of na die dertigste dag na die datum waarop hierdie Ooreenkoms in werking tree; en
- (b) met betrekking tot ander belastinge, ten opsigte van jare van aanslag beginnende op of na die datum waarop hierdie Ooreenkoms in werking tree.

3. Die Ooreenkoms vir die Vermydning van Dubbele Belasting en die Voorkoming van Fiskale Ontduiking met betrekking tot Belastinge op Inkomste gehef in die Unie van Suid-Afrika en in Basoetoland, tussen die Regering van die Unie van Suid-Afrika en die Regering van Groot-Brittanje en Noord-Ierland wat op 18 Junie 1959 in Kaapstad geteken is, word opgesê met ingang van die begin van enige jaar van aanslag of tydperk waarvoor die bepalings van hierdie Ooreenkoms van krag is.

## **Artikel 29**

### ***Opsegging***

1. Hierdie Ooreenkoms bly vir 'n onbepaalde tyd van krag, maar enigeen van die Kontrakterende State kan die Ooreenkoms langs diplomatieke weg opsigte aan die ander Kontrakterende Staat skriftelike kennis van opsegging te gee nie later nie as 30 Junie van enige kalenderjaar wat begin vyf jaar na die jaar waarin die Ooreenkoms van krag geword het.

2. In sodanige geval is die Ooreenkoms nie meer van krag nie:

- (a) met betrekking tot belastinge wat by die bron teruggehou word, ten opsigte van bedrae betaal of gekrediteer na die einde van die kalenderjaar waarin sodanige kennis gegee is; en
- (b) met betrekking tot ander belastinge, ten opsigte van jare van aanslag beginnende na die einde van die kalenderjaar waarin sodanige kennis gegee is.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Agreement.

DONE at Pretoria in duplicate, this 24th day of October of the year One Thousand Nine Hundred and Ninety Five.

(Signed) C.F.Liebenberg  
FOR THE GOVERNMENT OF THE  
REPUBLIC OF SOUTH AFRICA

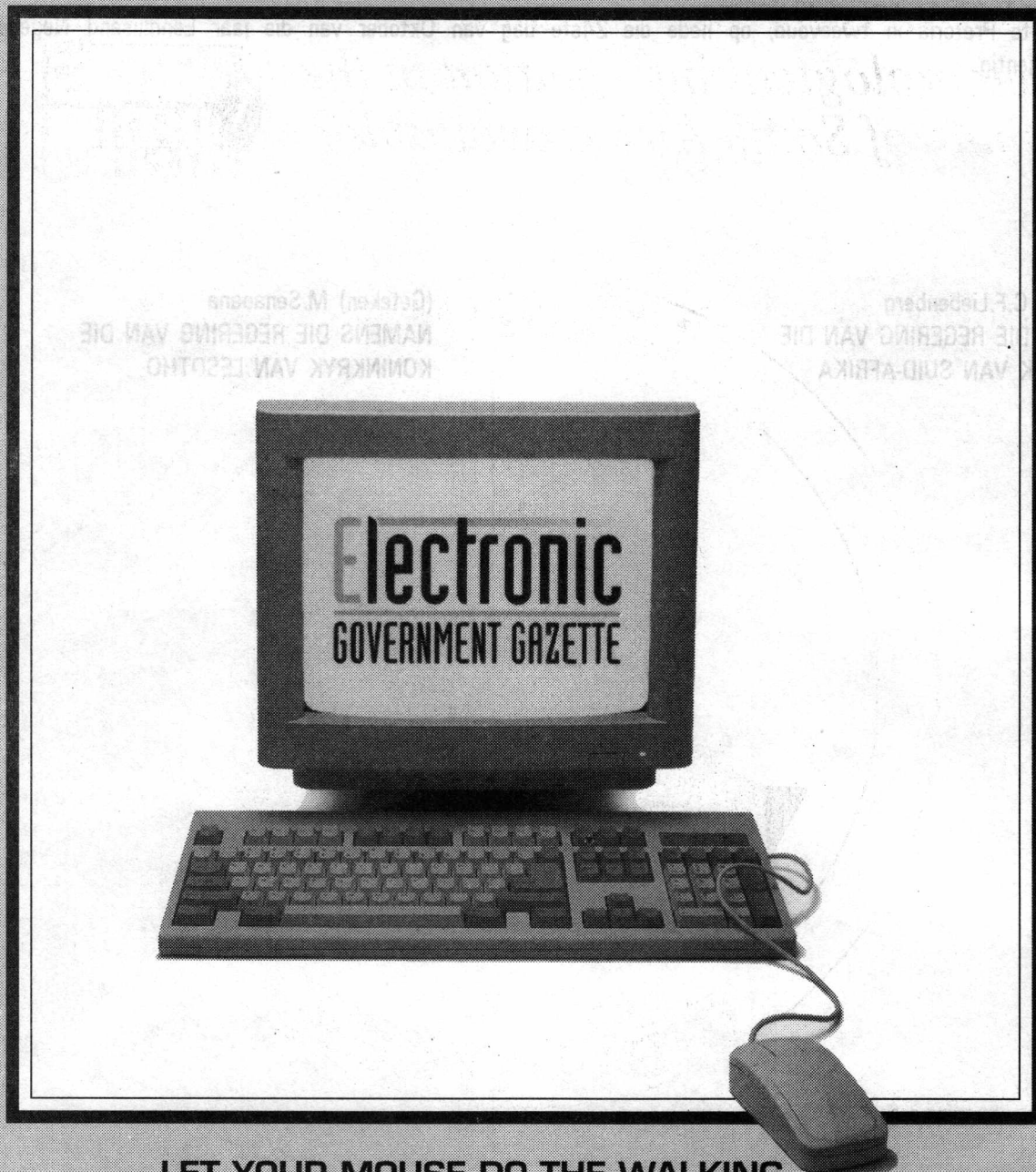
(Signed) M.Senaoana  
FOR THE GOVERNMENT OF THE  
KINGDOM OF LESOTHO

TEN BEWYSE WAARVAN die ondergetekendes, wat behoorlik daartoe gemagtig is, hierdie Ooreenkoms onderteken het.

GEDOEN te Pretoria in tweevoud, op hede die 24ste dag van Oktober van die jaar Eenduisend Negehonderd Vyf-en-negentig.

(Geteken) C.F.Liebenberg  
NAMENS DIE REGERING VAN DIE  
REPUBLIEK VAN SUID-AFRIKA

(Geteken) M.Senaoana  
NAMENS DIE REGERING VAN DIE  
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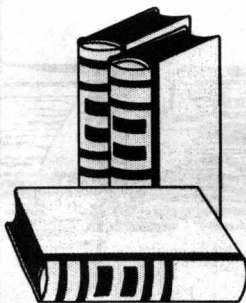
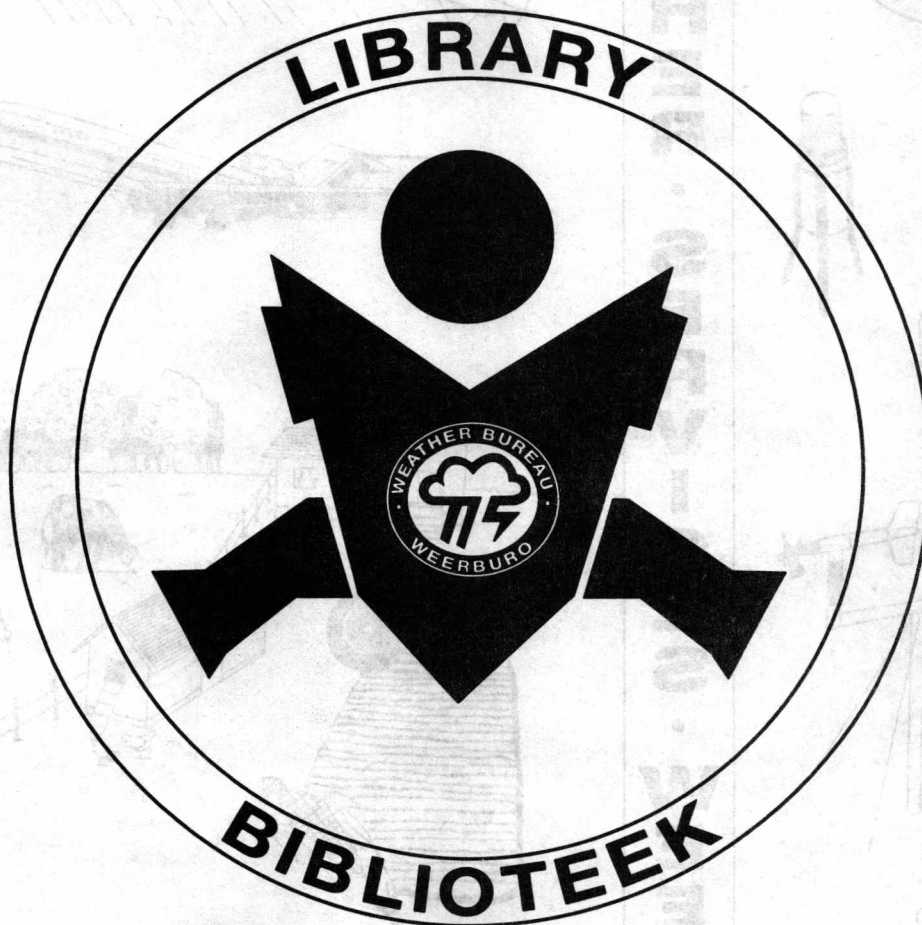
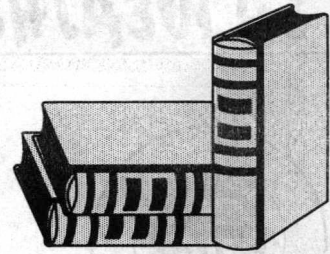
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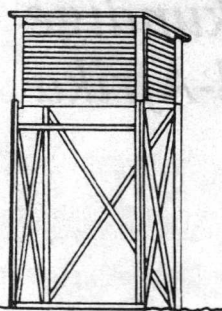
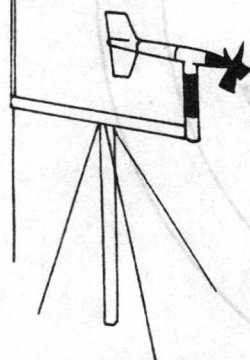
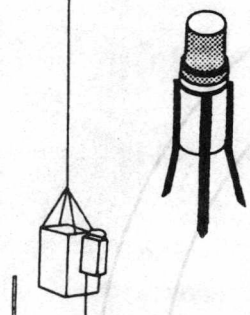
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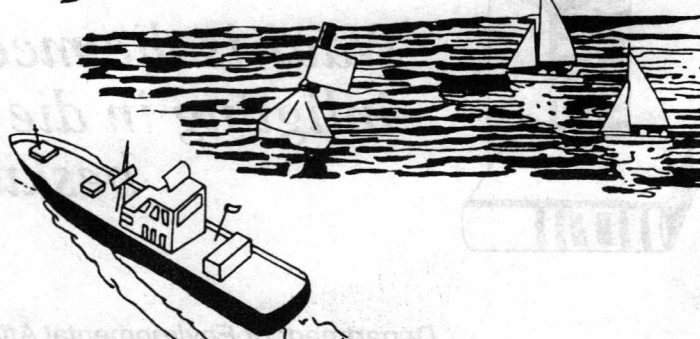
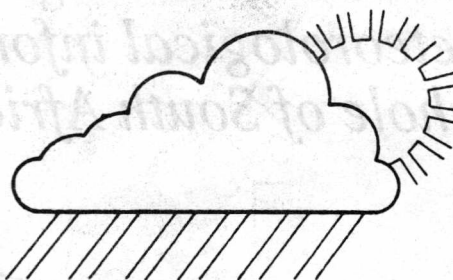


*Waar is die meeste weerkundige inligting in die hele Suid-Afrika beskikbaar?*

# SA WEATHER BUREAU SA WEERBURO



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DIE WEERBURU: DEPARTEMENT VAN OMGEWINGSAKE EN TOERISME

**CONTENTS****INHOUD**

No.	Page No.	Gazette No.	No.	Bladsy No.	Koerant No.
<b>GOVERNMENT NOTICE</b>			<b>GOEWERMENTSKENNISGEWING</b>		
<b>South African Revenue Service, Department of Government Notice</b>			<b>Suid-Afrikaanse Inkomstediens, Departement van Goewermentskennisgewing</b>		
607 Constitution of the Republic of South Africa (200/1993): Ratification of Agree- ment between the Republic of South Africa and the Kingdom of Lesotho: Avoidance of double taxation.....	1	17948	607 Grondwet van die Republiek van Suid- Afrika (200/1993): Bekragtiging van Ooreenkoms tussen die Republiek van Suid-Afrika en die Koninkryk van Lesotho: Vermydning van dubbele belas- ting .....	1	17948

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