

REPUBLIC
OF
SOUTH AFRICA



REPUBLIEK
VAN
SUID-AFRIKA

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GOVERNMENT NOTICE

GOEWERMENTSKENNISGEWING

DEPARTMENT OF FINANCE

No. 1462

27 September 1995

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.

DEPARTEMENT VAN FINANSIES

No. 1462

27 September 1995

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

AGREEMENT BETWEEN THE REPUBLIC OF SOUTH AFRICA AND ROMANIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS**Preamble**

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

Have agreed as follows:

I. SCOPE OF THE AGREEMENT**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 and on capital gains imposed on behalf of a Contracting State, its political subdivisions or its administrative-territorial units, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.
3. The existing taxes to which the Agreement shall apply are in particular:
 - (a) in Romania—
 - (i) the tax on income derived by individuals;
 - (ii) the tax on salaries, wages and other similar remuneration;
 - (iii) the tax on the profits of bodies and legal persons;
 - (iv) the tax on income realised from agricultural activities;

(hereinafter referred to as "Romanian tax");
 - (b) in the Republic of South Africa—
 - (i) the normal tax;
 - (ii) the non-resident shareholders' tax;

(hereinafter referred to as "South African tax").
4. This Agreement shall also apply to any other taxes of a substantially similar character which are subsequently imposed in addition to, or in place of, the existing taxes.

OOREENKOMS TUSSEN DIE REPUBLIEK VAN SUID-AFRIKA EN ROEMENIË VIR DIE VERMYDING VAN DUBBELE BELASTING EN DIE VOORKOMING VAN FISKALE ONTDUIKING MET BETREKKING TOT BELASTINGS OP INKOMSTE EN KAPITAALWINSTE**Aanhef**

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

soos volg ooreengekom:

I. OMVANG VAN DIE OOREENKOMS**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 belastings op inkomste en op kapitaalwinste, opgelê ten behoeve van 'n Kontrakterende Staat, sy staatkundige onderverdelings of sy administratief-territoriale eenhede, ongeag die wyse waarop dit gehef word.
2. As belastings op inkomste en op kapitaal word geag alle belastings gehef op totale inkomste, op totale kapitaal of op bestanddele van inkomste of van kapitaal, met inbegrip van belastings op winste verkry uit die vervreemding van roerende of onroerende eiendom, asook belastings op kapitaalappresiasië.
3. Die bestaande belastings waarop die Ooreenkoms van toepassing is, is in die besonder:
 - (a) in Roemenië—
 - (i) die belasting op inkomste deur individue verkry;
 - (ii) die belasting op salaris, lone en ander soortgelyke besoldiging;
 - (iii) die belasting op die winste van liggeme en regspersone;
 - (iv) die belasting op inkomste uit boerderybedrywighede;

(hierna "Roemeense belasting" genoem);
 - (b) in die Republiek van Suid-Afrika—
 - (i) die normale belasting;
 - (ii) die belasting op buitelandse aandeelhouers;

(hierna "Suid-Afrikaanse belasting" genoem).
4. Hierdie Ooreenkoms is ook van toepassing op enige ander belastings van 'n wesenlik soortgelyke aard wat hierna bykomend by, of in plaas van die bestaande belastings opgelê word.

5. At the end of each calendar year, the competent authorities of the Contracting States, shall notify each other of 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 diplomatic notes.

II. DEFINITIONS

Article 3

General Definitions

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

- (a) the term "Romania" means Romania and, when used in a geographical sense, indicates the territory of Romania including its territorial sea as well as the exclusive economic zone and the continental shelf over which Romania exercises sovereign rights, in accordance with its internal law and the international law, concerning the exploration and exploitation of the natural, biological and mineral resources existing in the sea waters, sea bed and subsoil of these waters;
- (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 which has been or may hereafter be designated, under the laws of South Africa, as areas within which South Africa may exercise sovereign rights or jurisdiction;
- (c) the terms "Contracting State" and "the other Contracting State" mean Romania or South Africa as the context requires;
- (d) the term "person" comprises an individual, a company and any other body of persons which is treated as an entity for tax purposes;
- (e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (g) the term "nationals" means all individuals having the citizenship of a Contracting State and all legal persons, partnerships, associations and other entities created under the law in force in a Contracting State;
- (h) the term "competent authority" means:
 - (i) in the case of Romania, the Minister of Economy and Finance or his authorised representative; and
 - (ii) in the case of South Africa, the Commissioner for Inland Revenue or his authorised representative;
- (i) the term "international traffic" means any transport by ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State.

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

5. Aan die einde van elke kalenderjaar stel die bevoegde owerhede van die Kontrakterende State mekaar in kennis van veranderings wat aan hulle onderskeie belastingwette aangebring is en, indien dit wenslik blyk te wees 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 diplomatieke notas.

II. WOORDOMSKRYWINGS

Artikel 3

Algemene Woordomskrywings

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

- (a) beteken die uitdrukking "Roemenië", Roemenië, en wanneer in geografiese verband gebruik, duि dit aan die gebied van Roemenië, met inbegrip van sy territoriale waters asook die eksklusiewe ekonomiese gebied en die kontinentale plat waaroer Roemenië soewereine regte uitoefen, in ooreenstemming met sy binnelandse reg en die volkereg, met betrekking tot die eksplorasie en ontginning van die natuurlike, biologiese en minerale hulpbronne wat in die seewaters, seebodem en ondergrond van hierdie waters bestaan;
- (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 wat ingevolge die wette van Suid-Afrika aangewys is of aangewys mag word as dele waarbinne Suid-Afrika soewereine regte of jurisdiksie mag uitoefen;
- (c) beteken die uitdrukking "Kontrakterende Staat" en "die ander Kontrakterende Staat" Roemenië of Suid-Afrika, na gelang die samehang vereis;
- (d) beteken die uitdrukking "persoon" 'n individu, 'n maatskappy en enige ander ligaam van persone wat vir belastingdoeleindes as 'n entiteit behandel word;
- (e) beteken die uitdrukking "maatskappy" enige regspersoon of enige entiteit wat vir belastingdoeleindes as 'n regspersoon behandel word;
- (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 "burgers" alle individue wat burgerskap van 'n Kontrakterende Staat besit en alle regspersone, vennootskappe, verenigings en ander entiteite geskep ingevolge die reg van krag in 'n Kontrakterende Staat;
- (h) beteken die uitdrukking "bevoegde owerheid":
 - (i) in die geval van Roemenië, die Minister van Ekonomie en Finansies of sy gemagtigde verteenwoordiger; en
 - (ii) in die geval van Suid-Afrika, die Kommissaris van Binnelandse Inkomste of sy gemagtigde verteenwoordiger;
- (i) beteken die uitdrukking "internasionale verkeer" enige vervoer per skip of vliegtuig bedryf deur 'n onderneming wie se plek van effektiewe bestuur in 'n Kontrakterende Staat geleë is, behalwe waar die skip of vliegtuig slegs tussen plekke in die ander Kontrakterende Staat bedryf word.

2. By die toepassing van hierdie Ooreenkoms in enige van die Kontrakterende State 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 belastings waaroer hierdie Ooreenkoms handel.

Article 4***Fiscal Domicile***

1. For the purposes of this Agreement:

- (a) the term "resident of Romania" means any person who, under the law of that State, is liable to taxation therein by reason of his residence, place of management or any other criterion of a similar nature;
- (b) the term "resident of the Republic of South Africa" means any individual who is ordinarily resident in South Africa and any legal person which is incorporated, managed or controlled in South Africa.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his case shall be determined in accordance with the following rules:

- (a) he shall be deemed to be a resident of the Contracting State in which he has a domicile available to him. If he has a domicile available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic interests are closer (centre of vital interests);
- (b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he does not have a domicile available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- (d) if he is a national of both Contracting States or neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

Article 5***Permanent Establishment***

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

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

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, oil well, quarry or other place of extraction of natural resources;
- (g) a plantation, farm, orchard or vineyard; and
- (h) a building site or construction, installation or assembly project which exists for a period of more than nine 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 pursuant to a contract of sale 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;

Artikel 4***Fiskale Domisilie*****1. By die toepassing van hierdie Ooreenkoms:**

- (a) beteken die uitdrukking "inwoner van Roemenië" 'n persoon wat kragtens die wette van daardie Staat daarin belastingpligtig is uit hoofde van sy verblyf, plek van bestuur of enige ander soortgelyke maatstaf;
- (b) beteken die uitdrukking "inwoner van die Republiek van Suid-Afrika" enige individu wat gewoonlik in Suid-Afrika woonagtig is en enige regspersoon wat in Suid-Afrika ingelyf, bestuur of beheer word.

2. Waar 'n individu uit hoofde van die bepalings van paragraaf 1 'n inwoner van beide Kontrakterende State is, word sy saak ooreenkomstig die volgende reëls bepaal:

- (a) hy word geag 'n inwoner te wees van die Kontrakterende Staat waarin hy 'n permanente tuiste tot sy besikking het. Indien hy in beide Kontrakterende State 'n permanente tuiste tot sy besikking het, word hy geag 'n inwoner te wees van die Kontrakterende Staat waarmee sy persoonlike en ekonomiese betrekkinge die nouste is (tuiste van lewensbelange);
- (b) indien nie bepaal kan word in watter Kontrakterende Staat hy sy tuiste van lewensbelange het nie, of indien hy nie 'n permanente tuiste in enigeen van die Kontrakterende State tot sy besikking het nie, word hy geag 'n inwoner te wees van die Kontrakterende Staat waarin hy 'n gebruiklike verblyfplek het;
- (c) indien hy 'n gebruiklike verblyfplek in beide Kontrakterende State het, of in geeneen van hulle nie, word hy geag 'n inwoner te wees van die Kontrakterende Staat waarvan hy 'n burger is;
- (d) indien hy 'n burger van beide Kontrakterende 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 Kontrakterende 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 waarin 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 werkinkel;
- (f) 'n myn, oliebron, steengroef of ander plek van ontginning van natuurlike hulpbronne;
- (g) 'n plantasie, plaas, boord of wingerd; en
- (h) 'n bouterrein of konstruksie-, installasie- of monteerprojek wat vir 'n tydperk van langer as nege maande bestaan.

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

- (a) die gebruik van fasilitete slegs met die doel om goedere of handelsware wat aan die onderneming behoort ingevolge 'n koopkontrak 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) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the sale of goods or merchandise belonging to the enterprise displayed at an occasional temporary fair or exhibition after the closing of the said fair or exhibition;
- (e) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
- (f) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise; and
- (g) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (f), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

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 Contracting State if it carries on supervisory activities therein in connection with a construction, installation or assembly project which is being undertaken in that other Contracting State for a period of more than nine 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 Contracting 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 Contracting State to conclude contracts in the name of the enterprise; or
- (b) he maintains in the first-mentioned Contracting 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 Contracting State wholly or almost wholly for the enterprise.

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

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

III. TAXATION OF INCOME

Article 6

Income from Immovable Property

1. Income derived 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 be defined in accordance with the law in 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.

- (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) die verkoop van goedere of handelsware wat aan die onderneming behoort en wat by 'n toevallige tydelike tentoonstelling of vertoning vertoon is, na afloop van gemelde tentoonstelling of vertoning;
- (e) 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;
- (f) die instandhouding van 'n vaste besigheidsplek slegs met die doel om vir die onderneming te adverteer, inligting te verskaf of wetenskaplike navorsing te doen of vir dergelike bedrywighede wat van 'n voorlopige of bykomstige aard is; en
- (g) die instandhouding van 'n vaste besigheidsplek slegs vir 'n kombinasie van die bedrywighede in subparagrawe (a) tot (f) genoem, mits 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 Kontrakterende Staat te hê indien dit toesighoudende bedrywighede daarin onderneem in verband met 'n konstruksie-, installasie- of monterprojek wat in daardie ander Kontrakterende Staat onderneem word vir 'n typerk van meer as nege 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 Kontrakterende Staat het nie, geag 'n permanente saak in daardie Staat te wees indien—

- (a) hy 'n algemene magtiging in eersgenoemde Kontrakterende Staat besit en dit gewoonlik uitoefen om kontrakte in die naam van die onderneming te sluit; of
- (b) hy in eersgenoemde Kontrakterende 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 Kontrakterende Staat uitsluitlik of byna uitsluitlik vir die onderneming.

6. 'n Onderneming van 'n Kontrakterende Staat word nie geag 'n permanente saak in die ander Kontrakterende Staat te hê nie bloot omdat hy in daardie ander Kontrakterende Staat besigheid dryf deur middel van 'n makelaar, algemene kommissie-agent of enige ander agent met onafhanklike status, waar 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 Kontrakterende Staat besigheid dryf (hetsy deur middel van 'n permanente saak of andersins) beteken nie op sigself dat enige van die maatskappye 'n permanente saak van die ander is nie.

III. BELASTING VAN INKOMSTE

Artikel 6

Inkomste uit Onroerende Eiendom

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

2. Die uitdrukking "onroerende eiendom" word omskryf ooreenkomsdig die reg van die Kontrakterende Staat waarin die betrokke eiendom geleë is. Die uitdrukking sluit in ieder geval in eiendom wat bykomend by bepalings 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, bronse en ander natuurlike hulpbronne; skepe, bote en vliegtuie word nie geag onroerende eiendom te wees nie.

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

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other Contracting 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. 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.

7. 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 reason to the contrary.

Article 8

Shipping and Air Transport

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

2. If the place of effective management of 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. Die bepalings van paragraaf 1 is van toepassing op inkomste verkry uit die regstreekse gebruik, verhuring of gebruik in enige ander vorm, van onroerende eiendom.
4. Die bepalings van paragrawe 1 en 3 is ook van toepassing op die inkomste uit onroerende eiendom van 'n onderneming en op inkōmste uit onroerende eiendom wat by die verrigting van onafhanklike persoonlike dienste gebruik word.

Artikel 7

Bedryfswinste

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 middel van 'n permanente saak wat daarin geleë is. Indien die onderneming besigheid dryf soos gemeld, kan die winste van die onderneming in die ander Kontrakterende 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 middel 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 aftrekkins 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 sodanige 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. 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.
7. Vir doeleindes 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.

Artikel 8

Skeepvaart en Lugvervoer

1. Winste uit die bedryf of verhuring van skepe of vliegtuie in internasionale verkeer en die verhuring van houers en verwante uitrusting wat bykomstig is by die bedryf van skepe of vliegtuie in internasionale verkeer is belasbaar slegs in die Kontrakterende Staat waarin die plek van effektiewe bestuur van die onderneming geleë is.
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. Notwithstanding the provisions of paragraph 1 and of Article 7, the profits derived by an enterprise of a Contracting State from the operation of ships or aircraft used exclusively in transportation between places situated in a Contracting State, are taxable in that State.

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 Contracting State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Contracting State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Contracting 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 arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that Contracting State, but, if the recipient is the beneficial owner of the dividends, the tax so charged shall not exceed 15 per cent of the gross amount of the dividends. The provisions of 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, mining shares, founders' shares or other rights not being debt claims, participating in profits, as well as income from other corporate rights which is subject to the same taxation treatment as income from shares according to the taxation law of the Contracting State of which the company making the distribution is a resident.

3. Ondanks die bepalings van paragraaf 1 en van Artikel 7, is winste verky deur 'n onderneming van 'n Kontrakterende Staat uit die bedryf van skepe of vliegtuie wat uitsluitlik vir vervoer tussen plekke in 'n Kontrakterende Staat gebruik word, in daardie Staat belasbaar.

4. Die bepalings van páragraaf 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 dienooreenkomsdig belas word.

2. Waar 'n Kontrakterende Staat by die winste van 'n onderneming van daardie Staat winste insluit — en dit dienooreenkomsdig belas — waarop 'n onderneming van die ander Kontrakterende Staat in daardie ander Kontrakterende Staat belas is en die winste aldus ingesluit winste is wat aan die onderneming van eersgenoemde Kontrakterende 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 Kontrakterende Staat 'n toepaslike aanpassing ten opsigte van die bedrag van die belasting daarin gehef op daardie winste. By die bepaling van sodanige aanpassing word die ander bepalings van hierdie Ooreenkoms behoorlik in ag geneem en die bevoegde overhede van die Kontrakterende State raadpleeg mekaar indien nodig.

Artikel 10

Dividende

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

2. Sodanige dividende kan egter ook in die Kontrakterende Staat waarvan die maatskappy wat die dividende betaal 'n inwoner is, en ooreenkomsdig die wette van daardie Kontrakterende Staat, belas word, maar indien die ontvanger die bevoordeelde eienaar van die dividende is, is die belasting aldus opgelê nie meer nie as 15 persent van die bruto bedrag van die dividende. Die bepalings van 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, mynaandele, stigtersaandele of ander regte wat nie skuldeise is nie, wat in winste deelneem, asook inkomste uit ander regspersoonsregte wat aan dieselfde belastingbehandeling as inkomste uit aandele onderwerp word ooreenkomsdig die belastingreg van die Kontrakterende Staat waarvan die maatskappy wat die uitkering doen 'n inwoner is.

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, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of Article 7 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 in that other Contracting State on the dividends paid by the company except in so far as such dividends are paid to a resident of that other Contracting State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment in that other Contracting State, or on the company's undistributed profits even if the dividends paid or undistributed profits consist wholly or partly of profits or income arising in such other Contracting State.

Article 11

Interest

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

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that Contracting State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 15 per cent of the gross amount of the interest. The provisions of this paragraph shall not apply to interest paid in respect of a loan made and guaranteed, directly or indirectly, by a Contracting State, a political subdivision, a local authority or an administrative-territorial unit thereof, the National Bank of Romania or the Reserve Bank of South Africa.

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. Penalty charges for late payment shall not be regarded as interest for the purpose 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 Contracting State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority, an administrative-territorial unit thereof or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

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 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.

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, in die ander Kontrakterende Staat, waarvan die maatskappy wat die dividende betaal 'n inwoner is, 'n permanente saak het wat effektief verbonde is met die aandelebesit uit hoofde waarvan die dividende betaal word. In sodanige geval is die bepalings van Artikel 7 van toepassing.

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

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 Kontrakterende Staat belas word.

2. Sodanige rente kan egter ook in die Kontrakterende Staat waarin dit ontstaan en ooreenkomstig die wette van daardie Kontrakterende Staat belas word, maar indien die ontvanger die bevoordeelde eienaar van die rente is, gaan die belasting aldus gehef nie 15 persent van die bruto bedrag van die rente te bove nie. Die bepalings van hierdie paragraaf is nie van toepassing nie met betrekking tot rente betaal ten opsigte van 'n lening gesluit en gewaarborg, regstreeks of onregstreeks, deur 'n Kontrakterende Staat, 'n staatkundige onderverdeling, 'n plaaslike overheid of 'n administratief-territoriale eenheid daarvan, die Nasionale Bank van Roemenië of die Reserwebank van Suid-Afrika.

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 inhoud 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. Boeteheffings vir laat betaling word vir doeleinande 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 Kontrakterende Staat onafhanklike persoonlike dienste lever 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 overheid, 'n administratief-territoriale eenheid daarvan 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 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 Kontrakterende 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 bove 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 dié 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.

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 Contracting 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 who is a resident of the other Contracting State beneficially owns the royalties, the tax so charged shall not exceed 15 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 alienation of, 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, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial or scientific experience.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise, a permanent establishment with which the right or property in respect of which the royalties are paid is effectively connected. In such a case, the provisions of Article 7 shall apply.
5. Where, owing to a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.
6. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

Article 13**Capital Gains**

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other Contracting State.
3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident.

Artikel 12**Tantièmes**

1. Tantièmes wat in 'n Kontrakterende Staat ontstaan en aan 'n inwoner van die ander Kontrakterende Staat betaal word, kan in die ander Kontrakterende Staat belas word.
2. Sodanige tantièmes kan egter ook in die Kontrakterende Staat waarin hulle ontstaan, en ooreenkomsdig die wette van daardie Staat, belas word, maar indien die ontvanger 'n inwoner van die ander Kontrakterende Staat is en die bevoordeelde eienaar van die tantième is, gaan die belasting aldus gehef nie 15 persent van die bruto bedrag van die tantième te bowe nie.
3. Die uitdrukking "tantième", soos in hierdie Artikel gebesig, beteken betalings van enige aard ontvang as vergoeding vir die vervreemding van, 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 diskette vir radio- of televisie-uitsending), enige patent, handelsmerk, ontwerp of model, plan, geheime formule of proses, of vir die gebruik van of die reg op die gebruik van industriële, handels- of wetenskaplike uitrusting, of vir inligting aangaande industriële of wetenskaplike ondervinding.
4. Die bepalings van paragrawe 1 en 2 is nie van toepassing nie indien die bevoordeelde eienaar van die tantième, synde 'n inwoner van 'n Kontrakterende Staat, in die ander Kontrakterende Staat waarin die tantième ontstaan, 'n permanente saak het waarmee die reg of eiendom ten opsigte waarvan die tantième betaal word, effektiel verbonde is. In sodanige geval is die bepalings van Artikel 7 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 tantième betaal, met inagneming van die gebruik, reg of inligting waarvoor dit betaal word, die bedrag te bowe gaan waaroer 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 ooreenkomsdig die reg 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 'n inwoner van daardie Staat is. Waar die persoon wat die tantième betaal, hetsy hy 'n inwoner van 'n Kontrakterende Staat is al dan nie, egter in 'n Kontrakterende Staat 'n permanente saak het in verband waarmee die verpligting om die tantième te betaal aangegaan is, en sodanige tantième deur daardie permanente saak gedra word, word sodanige tantième geag te ontstaan in die Kontrakterende Staat waarin die permanente saak geleë is.

Artikel 13**Kapitaalwinste**

1. Winste uit die vervreemding van onroerende eiendom, soos in paragraaf 2 van Artikel 6 omskryf, kan belas word in die Kontrakterende Staat waarin sodanige eiendom geleë is.
2. Winste uit die vervreemding van roerende eiendom wat deel uitmaak van die besigheidseiendom van 'n permanente saak wat 'n onderneming van 'n Kontrakterende Staat in die ander Kontrakterende Staat het, of van roerende eiendom wat betrekking het op 'n vaste basis wat vir 'n inwoner van 'n Kontrakterende Staat in die ander Kontrakterende Staat beskikbaar is met die doel om onafhanklike persoonlike dienste te lewer, met inbegrip van sodanige winste uit die vervreemding van sodanige permanente saak (alleen of tesame met die onderneming in sy geheel), of van sodanige vaste basis, kan in daardie ander Kontrakterende Staat belas word.
3. Winste uit die vervreemding van skepe of vliegtuie wat in internasionale verkeer bedryf word, of roerende eiendom wat betrekking het op die bedryf van sodanige skepe of vliegtuie, is belasbaar slegs in die Kontrakterende Staat waarin die plek van effektiewe bestuur van die onderneming geleë is.
4. Winste uit die vervreemding van enige eiendom, uitgesonderd dié in paragrawe 1, 2 en 3 vermeld, is belasbaar slegs in die Kontrakterende Staat waarvan die vervreemder 'n inwoner is.

Article 14***Independent Personal Services***

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other Contracting State but only so much of it as is attributable to that fixed base.
2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 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 Contracting 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 Contracting State if:
 - (a) the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned; and
 - (b) the remuneration is paid by or on behalf of an employer who is not a resident of the other Contracting State; and
 - (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other Contracting State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft 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***

1. 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 Contracting State.
2. The remuneration which a person to whom paragraph 1 applies derives from the company in respect of the discharge of day-to-day functions as an employee, shall be taxed in accordance with the provisions of Article 15.

Artikel 14***Onafhanklike Persoonlike Dienste***

1. Inkomste verkry deur 'n inwoner van 'n Kontrakterende Staat ten opsigte van professionele dienste of ander werkzaamhede van 'n onafhanklike aard, is slegs in daardie Staat belasbaar, tensy hy 'n vaste basis in die ander Kontrakterende Staat gereeld tot sy beskikking het vir doeleinnes van die verrigting van sy bedrywighede. Indien hy sodanige vaste basis het, kan die inkomste in die ander Kontrakterende Staat belas word maar dan slegs soveel daarvan as wat aan daardie vaste basis toeskryfbaar is.
2. Die uitdrukking "professionele dienste" sluit veral in onafhanklike wetenskaplike, letterkundige, kuns-, opvoedkundige of onderwysaktiwiteite, sowel as die onafhanklike aktiwiteite van geneeskundiges, regsgelerdes, ingenieurs, argitekte, tandartse en rekenmeesters.

Artikel 15***Afhanklike Persoonlike Dienste***

1. Behoudens die bepalings 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 Kontrakterende Staat belas word.
2. Ondanks die bepalings 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 Kontrakterende Staat belasbaar indien:
 - (a) die ontvanger teenwoordig is in die ander Kontrakterende Staat vir 'n tydperk of tydperke wat nie altesaam 183 dae gedurende die betrokke kalenderjaar te bowe gaan nie; en
 - (b) die besoldiging betaal word deur of namens 'n werkewer wat nie 'n inwoner van die ander Kontrakterende Staat is nie; en
 - (c) die besoldiging nie gedra word deur 'n permanente saak of 'n vaste basis wat die werkewer in die ander Kontrakterende Staat het nie.
3. Ondanks die voorafgaande bepalings van hierdie Artikel kan besoldiging wat deur 'n inwoner van 'n Kontrakterende Staat verkry word ten opsigte van 'n diensbetrekking beoefen aan boord van 'n skip of vliegtuig wat in internasionale verkeer bedryf word, in die Kontrakterende Staat waarin die plek van effektiwe bestuur van die onderneming geleë is, belas word.

Artikel 16***Direkteursgelde***

1. 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 Kontrakterende Staat belas word.
2. Die besoldiging wat 'n persoon op wie paragraaf 1 van toepassing is van die maatskappy verkry ten opsigte van die uitoefening van daagliks funksies as 'n werknemer, word ooreenkomsdig die bepalings van Artikel 15 belas.

Article 17***Artistes and Athletes***

1. Notwithstanding the provisions of Articles 14 and 15, income derived by entertainers such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such, may be taxed in the Contracting State in which these activities are exercised.
2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete 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 athlete are exercised.
3. Income derived from activities performed within the framework of cultural exchanges established under cultural agreements concluded between the two Contracting States shall be exempt from tax in the Contracting State in which the activities are performed.

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 Contracting State, shall be exempt from tax in the first-mentioned Contracting State to the extent that it is included in income for the purpose of the other Contracting 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 consideration of money paid.

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, a local authority or an administrative-territorial unit thereof to any individual for services rendered to that State, a political subdivision, a local authority or an administrative-territorial unit thereof 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 Contracting State or is ordinarily resident in that other Contracting State solely for the purpose of rendering those services.
2. Any pension paid by, or out of funds created by, one of the Contracting States, a political subdivision, a local authority or an administrative-territorial unit thereof to any individual for services rendered to that State, a political subdivision, a local authority or an administrative-territorial unit thereof 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 Contracting 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, a local authority or an administrative-territorial unit thereof for purpose of profits.

Artikel 17***Artieste en Atlete***

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, en deur atlete, uit hul persoonlike bedrywighede as sodanig, belas word in die Kontrakterende Staat waarin hierdie bedrywighede beoefen word.
2. Waar inkomste ten opsigte van persoonlike bedrywighede wat deur 'n verhoogkunstenaar of 'n atleet in dié hoedanigheid beoefen word, nie aan die verhoogkunstenaar of atleet 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 atleet beoefen word.
3. Inkomste verkry uit die verrigting van bedrywighede wat binne die raamwerk val van kulturele uitruilings ingevolge kulturele ooreenkomste tussen die twee Kontrakterende State gesluit, word van belasting vrygestel in die Kontrakterende Staat waarin die bedrywighede verrig 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 bronre 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 Kontrakterende Staat, is vrygestel van belasting in eersgenoemde Kontrakterende Staat in die mate waarin dit by inkomste ingesluit word vir doeleindes van die ander Kontrakterende Staat.
2. Die uitdrukking "annuïteit" soos in hierdie Artikel gebesig, beteken 'n vermelde bedrag wat periodiek op vermelde tye, gedurende lewe of gedurende 'n gespesifieerde of vasstelbare tydperk, betaalbaar is ingevolge 'n verpligting om die betalings te doen in ruil vir geld wat betaal is.

Artikel 19***Regeringsdiens***

1. Besoldiging (uitgesonderd pensioene) betaal deur, of uit fondse geskep deur een van die Kontrakterende State, 'n staatkundige onderverdeling, 'n plaaslike owerheid of 'n administratief-territoriale eenheid daarvan aan enige individu vir dienste gelewer aan daardie Staat, 'n staatkundige onderverdeling, 'n plaaslike owerheid of 'n administratief-territoriale eenheid daarvan by die uitoefening van regeringsfunksies is in die ander Kontrakterende Staat van belasting vrygestel indien die individu nie gewoonlik in daardie ander Kontrakterende Staat woonagtig is nie, of gewoonlik in daardie ander Kontrakterende Staat woonagtig is slegs met die doel om daardie dienste te lever.
2. Enige pensioen betaal deur of uit fondse geskep deur een van die Kontrakterende State, 'n staatkundige onderverdeling, 'n plaaslike owerheid of 'n administratief-territoriale eenheid daarvan aan 'n individu vir dienste gelewer aan daardie Staat, 'n staatkundige onderverdeling, 'n plaaslike owerheid of 'n administratief-territoriale eenheid daarvan by die uitoefening van regeringsfunksies is in die ander Kontrakterende Staat van belasting vrygestel in die mate waarin die besoldiging vir sodanige dienste van belasting vrygestel is in daardie ander Kontrakterende 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 een van die Kontrakterende State, 'n staatkundige onderverdeling, 'n plaaslike owerheid of 'n administratief-territoriale eenheid daarvan bedryf word met die doel om wins te maak.

Article 20**Teachers**

Notwithstanding the provisions of Article 15, a teacher who makes a temporary visit to one of the Contracting States for a period not exceeding two years for the purpose of teaching at a university, college, school or other educational institution in that State and who is, or immediately before such visit was, a resident of the other Contracting State shall, in respect of remuneration for such teaching, be exempt from tax in the first-mentioned Contracting State.

Article 21**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 Contracting State on payments received from outside that first-mentioned Contracting State for the purposes of his maintenance, education or training.

Article 22**Other Income**

Any income not dealt with in the foregoing provisions of this Agreement derived by a resident of a Contracting State who is subject to tax there in respect thereof, shall be subjected to tax only in that State.

IV. ELIMINATION OF DOUBLE TAXATION**Article 23****Elimination of Double Taxation**

Double taxation shall be eliminated as follows:

1. In the case of Romania, taxes paid by Romanian residents in respect of income or capital taxable in South Africa, in accordance with the provisions of this Agreement, shall be deducted from the Romanian taxes due according to the Romanian fiscal law.

Such deduction shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable to the income or the capital which may be taxed in South Africa.

2. In the case of South Africa, taxes paid by South-African residents in respect of income or capital taxable in Romania, in accordance with the provisions of this Agreement, shall be deducted from the South African taxes due according to the South African fiscal law.

Such deduction shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable to the income or the capital which may be taxed in Romania.

3. The terms "Romanian tax" and "South African tax" shall be deemed to include the amount of tax which would have been paid if the tax had not been reduced in accordance with laws designed to promote economic development or decentralization in either Contracting State, effective on the date of entry into force of this Agreement, or provisions which may be introduced in future in the taxation laws of either Contracting State in modification of, or in addition to, the existing laws.

Artikel 20**Onderwysers**

Ondanks die bepalings van Artikel 15, is 'n onderwyser wat 'n tydelike besoek aan een van die Kontrakterende State bring vir 'n tydperk van hoogstens twee jaar met die doel om onderrig aan 'n universiteit, kollege, skool of ander opvoedkundige instelling in daardie Staat te gee en wat 'n inwoner is, of onmiddellik voor sodanige besoek 'n inwoner was, van die ander Kontrakterende Staat, ten opsigte van besoldiging vir sodanige onderrig, in eersgenoemde Kontrakterende Staat van belasting vrygestel.

Artikel 21**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 Kontrakterende Staat vrygestel van belasting op betalings ontvang van buite daardie eersgenoemde Kontrakterende Staat vir die doel van sy onderhou, onderrig of opleiding.

Artikel 22**Ander Inkomste**

Enige inkomste wat nie in die voorafgaande bepalings van hierdie Ooreenkoms behandel is nie wat deur 'n inwoner van 'n Kontrakterende Staat verkry word en waarop hy daar belasbaar is, is slegs in daardie Staat aan belasting onderworpe.

IV. UITSKAKELING VAN DUBBELE BELASTING**Artikel 23****Uitskakeling van Dubbele Belasting**

Dubbele belasting word soos volg uitgeskakel:

1. In die geval van Roemenië word belastings wat ooreenkomstig die bepalings van hierdie Ooreenkoms deur inwoners van Roemenië betaal word ten opsigte van inkomste of kapitaal wat in Suid-Afrika belasbaar is, afgetrek van die Roemeense belastings wat ingevolge Roemeense fiskale reg verskuldig is.

Sodanige aftrekking gaan egter nie daardie gedeelte van die inkomstebelasting of kapitaalbelasting, soos bereken voordat die aftrekking toegestaan word, wat toeskryfbaar is aan die inkomste of die kapitaal wat in Suid-Afrika belas mag word, te bove nie.

2. In die geval van Suid-Afrika word belastings wat ooreenkomstig die bepalings van hierdie Ooreenkoms deur inwoners van Suid-Afrika betaal word ten opsigte van inkomste of kapitaal wat in Roemenië belasbaar is, afgetrek van die Suid-Afrikaanse belastings wat ingevolge Suid-Afrikaanse fiskale reg verskuldig is.

Sodanige aftrekking gaan egter nie daardie gedeelte van die inkomstebelasting of kapitaalbelasting, soos bereken voordat die aftrekking toegestaan word, wat toeskryfbaar is aan die inkomste of die kapitaal wat in Roemenië belas mag word, te bove nie.

3. Die uitdrukking "Roemeense belasting" en "Suid-Afrikaanse belasting" word geag in te sluit die belastingbedrag wat betaal sou gewees het indien die belasting nie verminder was nie ooreenkomstig wette wat ontwerp is om ekonomiese ontwikkeling of desentralisasie in 'n Kontrakterende Staat te bevorder, ten tyde van die inwerkingtreding van hierdie Ooreenkoms, of bepalings wat in die toekoms ingevoer mag word in die belastingwette van 'n Kontrakterende Staat ter wysiging van of bykomend by die bestaande wette.

4. The profits derived from a grant given by one of the Contracting States, a political subdivision, or any agency thereof to a resident of the other Contracting State under the laws of, and for the purpose of promoting economic development or decentralization in, the first-mentioned Contracting State, shall be taxable only in the first-mentioned Contracting State.

V. SPECIAL PROVISIONS

Article 24

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.

2. A Contracting State shall not adjust any assessment of a resident of the other Contracting State by including items of income already taxed in the other Contracting State after the expiry of the time limits provided for in its domestic law.

3. 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 Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities.

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

5. 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.

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

Article 25

Mutual Agreement Procedure

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

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. Die winste verkry uit 'n toekenning toegestaan deur een van die Kontrakterende State, 'n staatkundige onderverdeling of 'n agentskap daarvan aan 'n inwoner van die ander Kontrakterende Staat ingevolge die wette van en met die doel om ekonomiese ontwikkeling of desentralisasie in eersgenoemde Kontrakterende Staat te bevorder, is slegs in eersgenoemde Kontrakterende Staat belasbaar.

V. SPESIALE BEPALINGS

Artikel 24

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.
2. 'n Kontrakterende Staat wysig nie 'n aanslag van 'n inwoner van die ander Kontrakterende Staat deur inkomste-items in te sluit wat alreeds in die ander Kontrakterende Staat belas is na verstryking van die tydsbeperkings in sy landsreg bepaal nie.
3. Die belasting op 'n permanente saak wat 'n onderneming van 'n Kontrakterende Staat in die ander Kontrakterende Staat het, mag nie in daardie ander Kontrakterende Staat op 'n minder gunstige wyse gehef word as die belasting wat gehef word op ondernemings van daardie ander Kontrakterende Staat wat dieselfde bedrywigheid beoefen nie.
4. 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 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 ander soortgelyke ondernemings van daardie eersgenoemde Kontrakterende Staat onderworpe is of onderwerp kan word nie.
5. Hierdie Artikel word nie uitgelê as sou dit 'n Kontrakterende Staat verplig om aan inwoners van die ander Kontrakterende Staat enige persoonlike toelaes, verligtings en verminderings vir belastingdoeleindes uit hoofde van burgerlike status of gesinsverantwoordelikhede toe te staan wat hy aan sy eie inwoners toestaan nie.
6. In hierdie Artikel beteken die uitdrukking "belasting" die belastings waaroor hierdie Ooreenkoms handel.

Artikel 25

Prosedure vir Onderlinge Ooreenkoms

1. Waar 'n inwoner van 'n Kontrakterende Staat 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 Kontrakterende State voorsiening maak, sy saak stel aan die bevoegde owerheid van die Kontrakterende Staat waarvan hy 'n inwoner 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 geregtig voorkom en hy nie self 'n gesikte 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 die Ooreenkoms is nie.
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. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

Article 26

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 and of the domestic laws of the Contracting States concerning taxes covered by this Agreement in so far as the taxation thereunder is in accordance with this Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment or collection of the taxes which are the subject of this Agreement.

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

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

Article 27

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 28

Entry into Force

1. This Agreement shall be ratified in accordance with the constitutional provisions in force in each of the Contracting States and shall enter into force 30 days after the exchange of notes indicating that both Parties have complied with these provisions.

2. The provisions of this Agreement shall apply—

- (a) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January next following the date upon which this Agreement enters into force;
- (b) in respect of other taxes, for taxable years of the persons entitled to the benefits of this Agreement beginning on or after the first day of January next following the date upon which this Agreement enters into force.

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 wisseling plaasvind deur 'n Kommissie bestaande uit verteenwoordigers van die bevoegde owerhede van die Kontrakterende State.

Artikel 26

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 en van die landsreg van die Kontrakterende State aangaande belastings deur hierdie Ooreenkoms gedek vir sover die belasting daarkragtens in ooreenstemming met hierdie Ooreenkoms is. Enige inligting aldus uitgeruil, word as geheim behandel en mag nie openbaar gemaak word nie aan enige ander persone of owerhede as dié betrokke by die aanslaan of invordering van die belastings waaroer hierdie Ooreenkoms handel.

2. Die bepalings van paragraaf 1 word nie uitgelê nie as sou dit een van die bevoegde owerhede die verpligting ople om:

- (a) administratiewe maatreëls uit te voer wat strydig is met die wette of die administratiewe praktyk van daardie of van die ander Kontrakterende Staat nie;
- (b) besonderhede te verstrek wat nie kragtens die wette of in die normale loop van die administrasie van daardie of van die ander Kontrakterende Staat verkrybaar 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 openbare beleid sou wees.

Artikel 27

Diplomatieke Agente en Konsulêre Beampies

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

Artikel 28

Inwerkingtreding

1. Hierdie Ooreenkoms word bekratig ooreenkombig die grondwetlike bepalings van krag in elk van die Kontrakterende State en tree in werking 30 dae na die uitruil van notas wat aandui dat beide Partye hierdie bepalings nagekom het.

2. Die bepalings van hierdie Ooreenkoms is van toepassing—

- (a) ten opsigte van belastings wat by die bron teruggehou word, vir bedrae betaal of gekrediteer op of na die eerste dag van Januarie eersvolgende op die datum waarop hierdie Ooreenkoms van krag word;
- (b) ten opsigte van ander belastings, vir belastingjare van die persone wat geregtig is op die voordele van hierdie Ooreenkoms, beginnende op of na die eerste dag van Januarie eersvolgende op die datum waarop hierdie Ooreenkoms van krag word.

Article 29***Termination***

1. This Agreement shall remain in force indefinitely but either of the Contracting States may terminate the Agreement through diplomatic channels, 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) in respect of taxes withheld at source, for amounts paid or credited after the end of the calendar year in which such notice is given;
 - (b) in respect of other taxes, for taxable years of the persons entitled to the benefits of the Agreement beginning after the end of the calendar year in which such notice is given.

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

DONE at Bucharest this 12th day of November, 1993, in duplicate, in the Romanian and English and Afrikaans languages, all three texts being equally authentic except that in case of any divergence of interpretation the English text shall prevail.

(Signed) T.G.Alant

FOR THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA

(Signed) C.Gorcea

FOR THE GOVERNMENT
OF ROMANIA

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 opsê deur aan die ander Kontrakterende Staat skriftelike kennis van beëindiging 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 daardie geval is die Ooreenkoms nie meer van krag nie—

- (a) ten opsigte van belastings wat by die bron teruggehou word, vir bedrae betaal of gekrediteer na die einde van die kalenderjaar waarin sodanige kennis gegee is;
- (b) ten opsigte van ander belastings, vir belastingjare van die persone wat geregtig is op die voordele van hierdie Ooreenkoms, beginnende na die einde van die kalenderjaar waarin sodanige kennis gegee is.

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

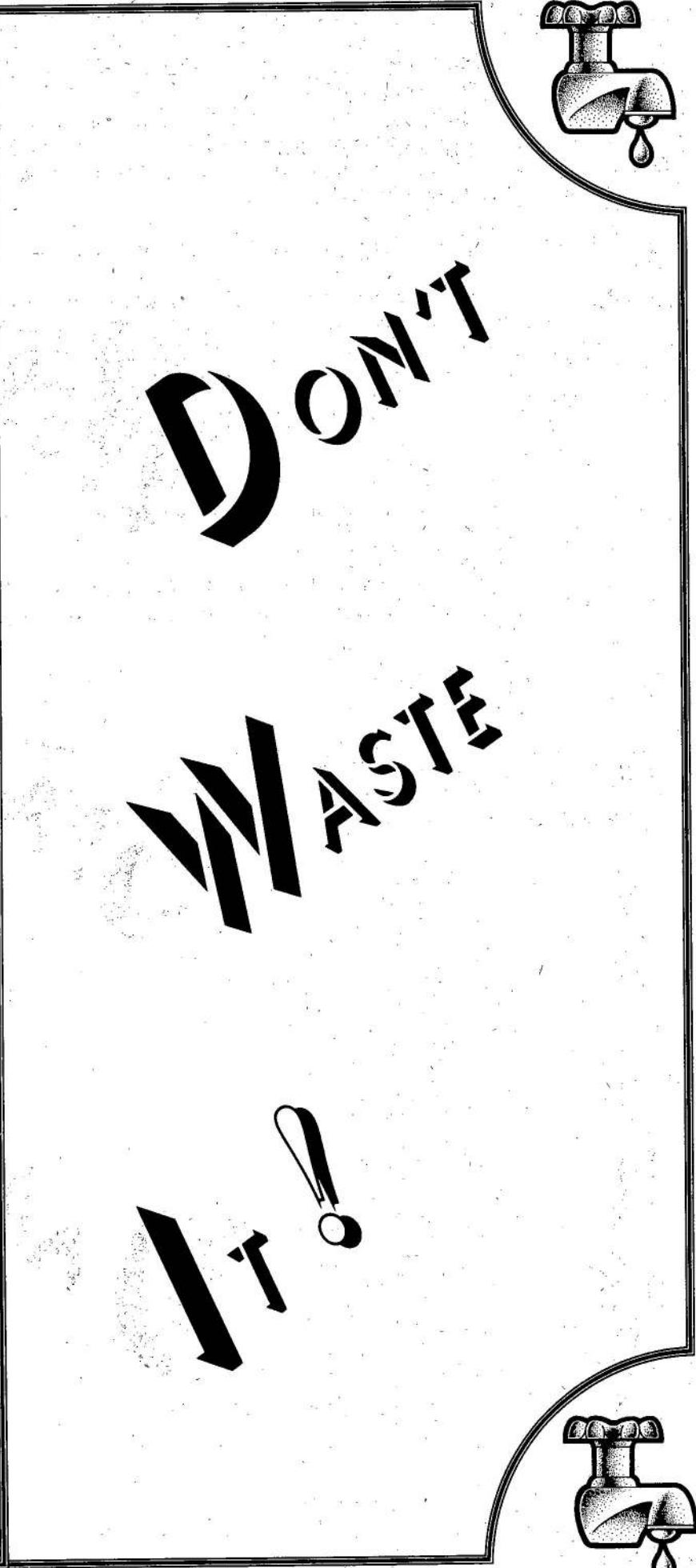
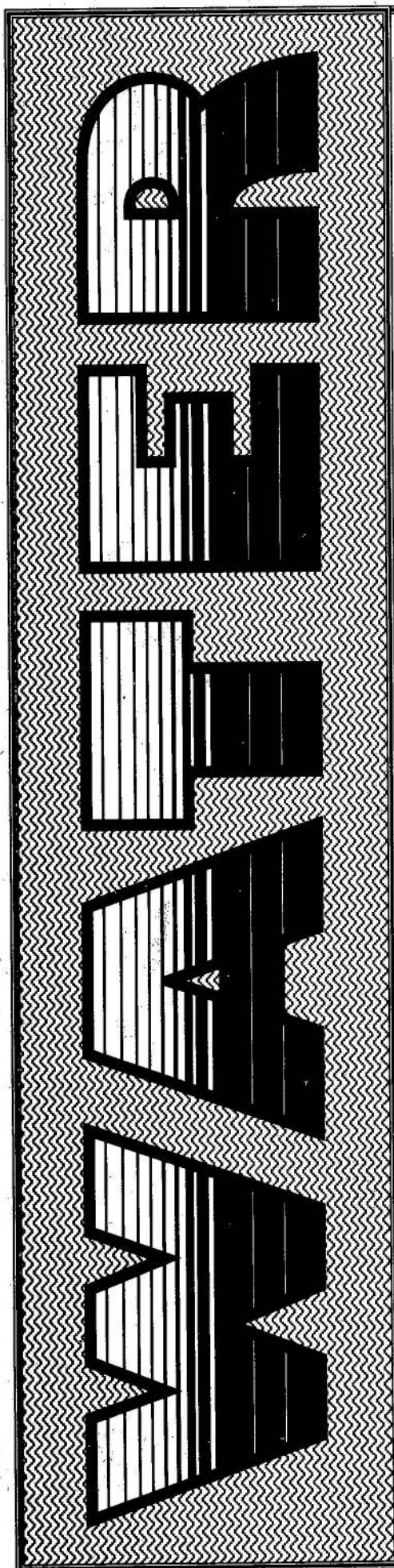
GEDOEN, te Boekarest op hede die 12de dag van November, 1993, in tweevoud, in die Roemeense, Engelse en Afrikaanse taal, waarvan al drie tekste ewe ouentiek is, behalwe dat in die geval van twyfel die Engelse teks geld.

(Geteken) T.G.Alant

NAMENS DIE REGERING VAN DIE
REPUBLIEK VAN SUID-AFRIKA

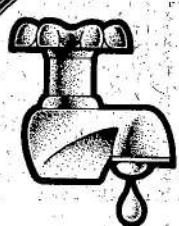
(Geteken) C.Gorcea

NAMENS DIE REGERING VAN
ROEMENIË



WATER

WERK
SPAAERSAAM
DAARMEE!



CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND THE GOVERNMENT OF THE FRENCH REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

Preamble

The Government of the Republic of South Africa and the Government of the French Republic, desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, have agreed as follows:

Article 1

Personal Scope

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

Article 2

Taxes Covered

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

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

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

(a) in the case of France:

- (i) the income tax ("l'impôt sur le revenu");
- (ii) the corporation tax ("l'impôt sur les sociétés");
- (iii) the tax on salaries ("la taxe sur les salaires");
- (iv) the wealth tax ("l'impôt de solidarité sur la fortune");

and any withholding tax, prepayment (précompte) or advance payment with respect to the aforesaid taxes;

(hereinafter referred to as "French tax");

(b) in the case of South Africa:

- (i) the normal tax;
- (ii) the non-resident shareholders' tax;

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

4. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of substantial changes which have been made in their respective taxation laws.

DIE KONVENTSIE TUSSEN DIE REGERING VAN DIE REPUBLIEK VAN SUID-AFRIKA EN DIE REGERING VAN DIE FRANSE REPUBLIEK VIR DIE VERMYDING VAN DUBBELE BELASTING EN DIE VOORKOMING VAN FISKALE ONTDUIKING MET BETREKKING TOT BELASTINGS OP INKOMSTE EN OP KAPITAAL**Aanhef**

Die Regering van die Republiek van Suid-Afrika en die Regering van die Franse Republiek het, uit 'n begeerde om 'n konvensie te sluit vir die vermyding van dubbele belasting en die voorkoming van fiskale ontduiking met betrekking tot belastings op inkomste en op kapitaal, soos volg ooreengekom:

Artikel 1***Persoonlike Omvang***

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

Artikel 2***Belastings Gedek***

1. Hierdie Konvensie is van toepassing op belastings op inkomste en op kapitaal, opgelê ten behoeve van 'n Kontrakterende Staat, of van sy plaaslike owerhede, ongeag die wyse waarop dit gehef word.
2. As belastings op inkomste en op kapitaal word geag alle belastings gehef op totale inkomste, op totale kapitaal of op bestanddele van inkomste of van kapitaal, met inbegrip van belastings op winste verkry uit die vervoerding van roerende of onroerende eiendom, belastings op die totale bedrae van lone of salarisse deur ondernemings betaal asook belastings op kapitaalappresiasié.
3. Die bestaande belastings waarop die Konvensie van toepassing is, is in die besonder:
 - (a) in die geval van Frankryk:
 - (i) die inkomstebelasting ("l'impôt sur le revenu");
 - (ii) die maatskappybelasting ("l'impôt sur les sociétés");
 - (iii) die belasting op salarisse ("la taxe sur les salaires");
 - (iv) die rykdombelasting ("l'impôt de solidarité sur la fortune");en enige terughoubelasting, vooruitbetaling (précompte) of vervroegde betaling ten opsigte van voornoemde belastings;
(hierna "Franse belasting" genoem);
 - (b) in die geval van Suid-Afrika:
 - (i) die normale belasting;
 - (ii) die belasting op buitelandse aandeelhouers;(hierna "Suid-Afrikaanse belasting" genoem).
4. Die Konvensie is ook van toepassing op enige identiese of wesenlik soortgelyke belastings wat bykomend by, of in plaas van, die bestaande belastings opgelê word na die datum van ondertekening van die Konvensie. Die bevoegde owerhede van die Kontrakterende State moet mekaar in kennis stel van enige wesenlike veranderings wat aan hulle onderskeie belastingwette aangebring is.

Article 3***General Definitions***

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

- (a) the terms "a Contracting State" and "the other Contracting State" mean France or South Africa, as the context requires;
- (b) the term "France" means the European and overseas departments of the French Republic including the territorial sea, and any area outside the territorial sea within which, in accordance with international law, the French Republic has sovereign rights for the purpose of exploring and exploiting the natural resources of the seabed and its subsoil and the superjacent waters;
- (c) 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 which, in accordance with international law, has been or may hereafter be designated, under the laws of South Africa, as an area within which South Africa may exercise sovereign rights or jurisdiction;
- (d) the term "person" includes an individual, a company and any other body of persons which is treated as an entity for tax purposes;
- (e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (h) the term "competent authority" means:
 - (i) in the case of France, the Minister in charge of the Budget or his authorised representative;
 - (ii) in the case of South Africa, the Commissioner for Inland Revenue or his authorised representative.

2. As regards the application of the Convention by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws of that State concerning the taxes to which the Convention applies. The meaning of a term under the taxation law of that State shall have priority over the meaning provided for such term in other branches of law of that State.

Article 4***Resident***

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

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

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);

Artikel 3***Algemene Woordomskrywings***

1. By die toepassing van hierdie Konvensie, tensy die samehang anders vereis:
 - (a) beteken die uitdrukking "n Kontrakterende Staat" en "die ander Kontrakterende Staat" Frankryk of Suid-Afrika, na gelang die samehang vereis;
 - (b) beteken die uitdrukking "Frankryk" die Europese en oorsese departemente van die Franse Republiek, met inbegrip van die territoriale waters asook enige deel buite die territoriale waters waarbinne die Franse Republiek ooreenkomstig die volkereg soewereine regte besit vir die doel van eksplorasie en ontginning van die natuurlike hulpbronne van die seebodem en sy ondergrond en die boliggende waters;
 - (c) beteken die uitdrukking "Suid-Afrika" die Republiek van Suid-Afrika en, wanneer in 'n geografiese sin gebruik, ook die territoriale waters daarvan asook enige deel buite die territoriale waters wat, ooreenkomstig die volkereg, aangewys is of mag word, ingevolge die wette van Suid-Afrika, as 'n deel waarbinne Suid-Afrika soewereine regte of jurisdiksie mag uitoefen;
 - (d) beteken die uitdrukking "persoon" ook 'n individu, 'n maatskappy en enige ander liggaam van persone wat vir belastingdoeleindes as 'n entiteit beskou word;
 - (e) beteken die uitdrukking "maatskappy" enige regspersoon of enige entiteit wat vir belastingdoeleindes as 'n regspersoon behandel word;
 - (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 of vliegtuig bedryf deur 'n onderneming wie se plek van effektiewe bestuur in 'n Kontrakterende Staat geleë is, behalwe waar die skip of vliegtuig slegs tussen plekke in die ander Kontrakterende Staat bedryf word;
 - (h) beteken die uitdrukking "bevoegde owerheid":
 - (i) in die geval van Frankryk, die Minister in beheer van die Begroting of sy gemagtigde verteenwoordiger;
 - (ii) in die geval van Suid-Afrika, die Kommissaris van Binnelandse Inkomste of sy gemagtigde verteenwoordiger.
2. By die toepassing van die Konvensie deur 'n Kontrakterende Staat het 'n uitdrukking wat nie daarin omskryf is nie, tensy die samehang anders vereis, die betekenis wat daaraan geheg word deur daardie Staat se wette betreffende die belastings waaroer hierdie Konvensie handel. Die betekenis van 'n uitdrukking ingevolge die belastingreg van daardie Staat geniet voorkeur bo die betekenis van die uitdrukking in ander vertakkinge van die reg van daardie Staat.

Artikel 4***Inwoner***

1. By die toepassing van hierdie Konvensie beteken die uitdrukking "inwoner van 'n Kontrakterende Staat":
 - (a) in die geval van Frankryk, enige persoon wat, kragtens die Franse wette, in Frankryk belastingpligtig is uit hoofde van sy domisilie, verblyf, plek van bestuur of enige ander maatstaf van 'n dergelike aard;
 - (b) in die geval van Suid-Afrika, enige individu wat gewoonlik in Suid-Afrika woonagtig is en enige persoon, behalwe 'n individu, wie se plek van effektiewe bestuur in Suid-Afrika geleë is.
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) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either 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 Contracting 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.

4. The term "resident of a Contracting State" shall include:

- (a) that State, its local authorities and statutory bodies of either;
- (b) in the case of France, a partnership or other group of persons subject to a substantially similar tax regime under French taxation law, whose place of effective management is situated in France and is not liable to corporation tax in France.

Article 5

Permanent Establishment

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

2. The term "permanent establishment" includes especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop; and
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site or construction or assembly project constitutes a permanent establishment only if it lasts more than twelve months.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- (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.

- (b) indien die Staat waarin hy sy tuiste van lewensbelange het nie bepaal kan word nie, of indien hy nie 'n permanente tuiste in enige van die State tot sy beskikking het nie, word hy geag 'n inwoner te wees van die Staat waarin hy 'n gebruiklike verblyfplek het;
- (c) indien hy 'n gebruiklike verblyfplek in beide State het, of in geeneen van hulle nie, word hy geag 'n inwoner te wees van die Kontrakterende Staat waarvan hy 'n burger is;
- (d) indien hy 'n burger van beide State is, of van geeneen van hulle nie, besleg die bevoegde owerhede van die Kontrakterende State die saak deur middel van onderlinge ooreenkoms.

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.

4. Die uitdrukking "inwoner van 'n Kontrakterende Staat" sluit in:

- (a) daardie Staat, sy plaaslike owerhede en statutêre liggamide van een van hulle;
- (b) in die geval van Frankryk, 'n vennootskap of ander groep persone wat kragtens die Franse belastingreg aan 'n wesenlik soortgelyke belastingbewind onderworpe is, wie se plek van effektiewe bestuur in Frankryk geleë is en nie in Frankryk aan maatskappybelasting onderworpe is nie.

Artikel 5

Permanente Saak

1. By die toepassing van hierdie Konvensie beteken die uitdrukking "permanente saak" 'n vaste besigheidsplek waarin 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 werkinkel; en
- (f) 'n myn, 'n olie- of gasbron, 'n steengroef of 'n ander plek van ontginning van natuurlike hulpbronne.

3. 'n Bouterrein of konstruksie- of monteerprojek maak 'n permanente saak uit slegs indien dit langer as twaalf maande bestaan.

4. Ondanks die voorafgaande bepalings van hierdie Artikel, word die uitdrukking "permanente saak" geag nie die volgende in te sluit nie:

- (a) die aanwending van fasilitete 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) die instandhouding van 'n vaste besigheidsplek slegs met die doel om goedere of handelsware aan te koop, of om inligting in te win vir die onderneming;
- (e) die instandhouding van 'n vaste besigheidsplek slegs met die doel om enige ander bedrywighede, wat van 'n voorlopige of bykomstige aard is, vir die onderneming te beoefen; en
- (f) die instandhouding van 'n vaste besigheidsplek, slegs vir 'n kombinasie van die bedrywighede in subparagraphe (a) tot (e) genoem, mits die algehele bedrywighede van die vaste besigheidsplek wat uit hierdie kombinasie voortspruit, van 'n voorlopige of bykomstige aard is.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person — other than an agent of an independent status to whom paragraph 6 applies — is acting on behalf of an enterprise and has, and habitually exercises in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

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

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6

Income from Immovable Property

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

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include 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.

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.

5. Where the ownership of shares or other rights in a company or legal person entitles the owner to the enjoyment of immovable property situated in a Contracting State and held by that company or legal person, income derived by the owner from the direct use, letting or use in any other form of his right of enjoyment may be taxed in that State.

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 Contracting State but only so much of them as is attributable to that permanent establishment.

5. Ondanks die bepalings van paragrawe 1 en 2, waar 'n persoon — uitgesonderd 'n agent met onafhanklike status op wie paragraaf 6 van toepassing is — namens 'n onderneming optree en magtiging het, en dit gewoonlik in 'n Kontrakterende Staat uitoefen, om ooreenkoms te sluit, word daardie onderneming geag 'n permanente saak in daardie Staat te hê ten opsigte van enige bedrywighede wat daardie persoon vir die onderneming onderneem, tensy die bedrywighede van sodanige persoon beperk is tot dié in paragraaf 4 genoem wat, indien dit deur 'n vaste besigheidsplek uitgeoefen sou word, hierdie vaste besigheidsplek nie ingevolge die bepalings van daardie paragraaf 'n permanente saak sou maak nie.

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 middel 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 (het sy deur middel van 'n permanente saak of andersins) beteken nie op sigself dat enige 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) wat in die ander Kontrakterende Staat geleë is, kan in daardie ander Staat belas word.

2. Die uitdrukking "onroerende eiendom" het die betekenis wat daaraan toegeskryf is ingevolge 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 bepalings 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 mineraalfasettings, bronne en ander natuurlike hulpbronne; skepe, bote en vliegtuie word nie geag onroerende eiendom te wees nie.

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

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.

5. Waar die eiendomsreg in aandele of ander regte in 'n maatskappy of regspersoon die eienaars geregtig maak daarop om onroerende eiendom te geniet wat in 'n Kontrakterende Staat geleë is en wat deur daardie maatskappy of regspersoon gehou word, kan inkomste wat deur die eienaars verkry word uit die regstreekse gebruik, verhuring of gebruik in enige ander vorm van sy reg van genot, in daardie Staat belas word.

Artikel 7

Besigheidswinst

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 Kontrakterende Staat belas word, maar slegs soveel daarvan as wat aan daardie permanente saak toeskryfbaar is.

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 determining 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 State in which the permanent establishment is situated or elsewhere.

4. 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.

5. 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.

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

Article 8

Shipping and Air Transport

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. Those profits shall include profits derived by the enterprise from activities which are incidental to such operation, and in particular profit derived from the use, maintenance or rental of containers used for the transport of goods or merchandise in international traffic.

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

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

Article 9

Associated Enterprises

1. Where:

- (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Behoudens die bepalings van paragraaf 3, waar 'n onderneming van 'n Kontrakterende Staat in die ander Kontrakterende Staat besigheid dryf deur middel 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 aftrekings toegelaat uitgawes wat vir doeleindes van die permanente saak aangegaan is, met inbegrip van bestuurs- en algemene administrasiekoste aldus aangegaan, hetsy in die Staat waarin die permanente saak geleë is, of elders.

4. 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.

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

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

Artikel 8

Skeepvaart en Lugvervoer

1. Winste uit die bedryf van skepe of vliegtuie in internasionale verkeer is belasbaar slegs in die Kontrakterende Staat waarin die plek van effektiewe bestuur van die onderneming geleë is. Daardie winste sluit in winste deur die onderneming verkry uit bedrywighede wat bykomstig is by sodanige bedryf, en in die besonder winste verkry uit die gebruik, onderhoud of verhuring van houers wat vir die vervoer van goedere of handelsware in internasionale verkeer gebruik word.

2. Indien die plek van effektiewe bestuur van 'n skeepvaartonderneming aan boord van 'n skip is, word dit geag geleë te wees in die Kontrakterende Staat waarin die tuishawe van die skip geleë is, of, indien daar geen sodanige tuishawe is nie, in die Kontrakterende Staat waarvan die operateur van die skip 'n inwoner is.

3. Die bepalings van paragraaf 1 is ook van toepassing op winste verkry uit 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 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 dienooreenkomsdig belas word.

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 where that other State considers the adjustment justified. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10

Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

- (a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 10 per cent of the capital of the company paying the dividends;
- (b) 15 per cent of the gross amount of the dividends in all other cases.

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

3. A resident of South Africa who receives dividends paid by a company which is a resident of France may obtain the refund of the prepayment (*précompte*) effectively paid, if any, by the company in respect of such dividends. The gross amount of the prepayment (*précompte*) refunded shall be deemed to be dividends for the purposes of this Convention. It shall be taxable in France according to the provisions of paragraph 2 of this Article.

4. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income treated as a distribution by the taxation laws of the Contracting State of which the company making the distribution is a resident. The term "dividends" shall not include income mentioned in Article 16.

5. The provisions of paragraphs 1, 2 and 3 of this Article shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

2. Waar 'n Kontrakterende Staat by die winste van 'n onderneming van daardie Staat winste insluit — en dit dienooreenkomsdig belas — waarop 'n onderneming van die ander Kontrakterende Staat deur die 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 gestel dieselfde was as dié wat tussen onafhanklike ondernemings gestel sou gewees het, doen die ander Staat 'n toepaslike aanpassing aan die bedrag van die belasting daarin gehef op sodanige winste indien die ander Staat die aanpassing geregverdig ag. By die bepaling van sodanige aanpassing word die ander bepulings van hierdie Konvensie behoorlik in ag geneem en die bevoegde owerhede van die Kontrakterende State raadpleeg mekaar indien nodig.

Artikel 10

Dividende

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

2. Sodanige dividende kan egter ook in die Kontrakterende Staat waarvan die maatskappy wat die dividende betaal 'n inwoner is, en ooreenkomsdig die wette van daardie Staat, belas word, maar indien die ontvanger die bevoordeelde eienaar van die dividende is, is die belasting aldus gehef nie meer nie as:

- (a) 5 persent van die bruto bedrag van die dividende indien die bevoordeelde eienaar 'n maatskappy is wat regstreeks minstens 10 persent hou van die kapitaal van die maatskappy wat die dividende betaal; of
- (b) 15 persent van die bruto bedrag van die dividende in alle ander gevalle.

Die bepulings van hierdie paragraaf raak nie die belasting van die maatskappy ten opsigte van die winste waaruit die dividende betaal word nie.

3. 'n Inwoner van Suid-Afrika wat dividende verkry van 'n maatskappy wat 'n inwoner is van Frankryk mag 'n terugbetaling kry van die vooruitbetaling (précompte) effektiewelik deur die maatskappy betaal, as daar is, ten opsigte van sodanige dividende. Die bruto bedrag van die vooruitbetaling (précompte) terugbetaal, word geag dividende te wees vir doeleinades van hierdie Konvensie. Dit is in Frankryk belasbaar ingevolge die bepulings van paragraaf 2 van hierdie Artikel.

4. Die uitdrukking "dividende" soos in hierdie Artikel gebesig, beteken inkomste uit aandele, "jouissance"-aandele of "jouissance"-regte, mynaandele, stigtersaandele of ander winsdelende regte wat nie skuldeise is nie, asook inkomste wat as 'n uitkering behandel word ingevolge die belastingwette van die Kontrakterende Staat waarvan die maatskappy wat die uitkering doen 'n inwoner is. Die uitdrukking "dividende" sluit nie inkomste vermeld in Artikel 16 in nie.

5. Die bepulings van paragrawe 1, 2 en 3 van hierdie Artikel is nie van toepassing nie indien die bevoordeelde eienaar van die dividende 'n inwoner van 'n Kontrakterende Staat is en 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 aandelebesit ten opsigte waarvan die dividende betaal word effektief verbonde is met daardie permanente saak of vaste basis. In so 'n geval is die bepulings van Artikel 7 of Artikel 14, na gelang van die geval, van toepassing.

6. Waar 'n maatskappy wat 'n inwoner van 'n Kontrakterende Staat is, winste of inkomste uit die ander Kontrakterende Staat verkry, hef daardie ander Staat nie belasting op die dividende wat deur die maatskappy betaal word nie, behalwe vir sover sodanige dividende betaal word aan 'n inwoner van daardie ander Staat of vir sover die aandelebesit ten opsigte waarvan die dividende betaal word effektief verbonde is met 'n permanente saak of 'n 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 daardie ander Staat ontstaan.

Article 11***Interest***

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if such resident is the beneficial owner of the interest and if such interest is subject to tax in that other State.
2. 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. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article. The term "interest" shall not include any item of income which is treated as a dividend under the provisions of Article 10.
3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
4. Interest shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a local authority, a statutory body or another 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.
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 interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12***Royalties***

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State, if such resident is the beneficial owner of the royalties and if such royalties are subject to tax in that other State.
2. 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 or similar right, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.
3. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

Artikel 11**Rente**

1. Rente wat in 'n Kontrakterende Staat ontstaan en aan 'n inwoner van die ander Kontrakterende Staat betaal word, is slegs in daardie ander Staat belasbaar, indien sodanige inwoner die bevoordeelde eienaar van die rente is, en indien sodanige rente in daardie ander Staat aan belasting onderworpe is.
2. 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 inhoud om in die skuldenaar se winste te deel al dan nie, en in die besonder, inkomste uit staatseffekte en inkomste uit obligasies of skuldbrieve, insluitende premies en pryse aan sodanige effekte, obligasies of skuldbrieve verbonde. Boeteheffings vir laat betaling word vir doeleindes van hierdie Artikel nie as rente beskou nie. Die uitdrukking "rente" behels nie 'n inkomste-item wat ingevolge die bepalings van Artikel 10 as 'n dividend hanteer word nie.
3. Die bepalings van paragraaf 1 is nie van toepassing nie indien die bevoordeelde eienaar van die rente 'n inwoner van 'n Kontrakterende Staat is en 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 waaruit die rente ontstaan effekief verbonde is aan sodanige permanente saak of vaste basis. In so 'n geval is die bepalings van Artikel 7 of Artikel 14, na gelang van die geval, van toepassing.
4. Rente word geag in 'n Kontrakterende Staat te ontstaan wanneer die betaler daardie Kontrakterende Staat self, 'n plaaslike owerheid, 'n statutêre liggaam of ander 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 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.
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 rente wat betaal word, met inagneming van die skuldeis ten opsigte waarvan dit betaal word, die bedrag te bowe gaan waaroer 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 dié geval bly die oormatige deel van die betalings ooreenkomsdig die wette van elk van die Kontrakterende State belasbaar, maar met behoorlike inagneming van die ander bepalings van hierdie Konvensie.

Artikel 12**Tantièmes**

1. Tantièmes wat in 'n Kontrakterende Staat ontstaan en aan 'n inwoner van die ander Kontrakterende Staat betaal word, is slegs in die ander Staat belasbaar, indien sodanige inwoner die bevoordeelde eienaar van die tantièmes is, en indien sodanige tantièmes aan belasting in daardie ander Staat onderworpe is.
2. 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 of dergelike reg, enige patent, handelsmerk, ontwerp of model, plan, geheime formule of proses, of vir die gebruik van, of die reg op die gebruik van, industriële, handels- of wetenskaplike uitrusting, of vir inligting aangaande industriële, handels- of wetenskaplike ondervinding.
3. Die bepalings van paragraaf 1 is nie van toepassing nie indien die bevoordeelde eienaar van die tantièmes 'n inwoner van 'n Kontrakterende Staat is en 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, effekief verbonde is met sodanige permanente saak of vaste basis. In so 'n geval is die bepalings van Artikel 7 of Artikel 14, na gelang van die geval, van toepassing.

4. Royalties shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a local authority, a statutory body or another 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.

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, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13

Capital Gains

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

(b) Gains from the alienation of shares or rights in a company or legal person the assets of which consist principally, directly or through the interposition of one or more other companies or legal persons, of immovable property situated in a Contracting State or of rights connected with such immovable property may be taxed in that State. For the purposes of this provision, immovable property pertaining to the industrial, commercial or agricultural operation of such company or legal person or to the performance of its independent personal services shall not be taken into account.

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

3. Gains from the alienation of ships or aircraft operated in international traffic, or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. Gains from the alienation of any property, other than that referred to in the preceding paragraphs of this Article, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

Independent Personal Services

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purposes of performing his activities. If he has such a fixed base, the income may be taxed in the other Contracting State but only so much of it as is attributable to that fixed base.

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

4. Tantièmes word geag in 'n Kontrakterende Staat te ontstaan wanneer die betaler daardie Kontrakterende Staat self, 'n plaaslike owerheid, 'n statutêre liggaaam of ander 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 vaste basis het waarmee die reg of eiendom ten opsigte waarvan die tantièmes betaal word, effektiel verbonde is, en sodanige tantièmes deur daardie 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.

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 waaroer 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 dié geval bly die oormatige deel van die betalings ooreenkomsdig die wette van elk van die Kontrakterende State belasbaar, maar met behoorlike inagneming van die ander bepalings van hierdie Konvensie.

Artikel 13

Kapitaalwinst

1. (a) Winst deur 'n inwoner van 'n Kontrakterende Staat verkry uit die vervreemding van in Artikel 6 bedoelde onroerende eiendom wat in die ander Kontrakterende Staat geleë is, kan in daardie ander Staat belas word.

(b) Winst uit die vervreemding van aandele of regte in 'n maatskappy of regspersoon waarvan die bates, regstreeks of deur die tussenvoeging van een of meer ander maatskappye of regspersone, hoofsaaklik bestaan uit onroerende eiendom in 'n Kontrakterende Staat geleë of uit regte gekoppel aan sodanige onroerende eiendom, kan in daardie Staat belas word. By die toepassing van hierdie bepaling word onroerende eiendom wat betrekking het op die industriële, handels- of landbouwerssaamhede van sodanige maatskappy of regspersoon, of op die verrigting van sy onafhanklike persoonlike dienste, nie in ag geneem nie.

2. Winst uit die vervreemding van roerende eiendom wat deel uitmaak van die besigheidseiendom van 'n permanente saak wat 'n onderneming van 'n Kontrakterende Staat in die ander Kontrakterende Staat het, of van roerende eiendom wat betrekking het op 'n vaste basis wat vir 'n inwoner van 'n Kontrakterende Staat in die ander Kontrakterende Staat beskikbaar is met die doel om onafhanklike persoonlike dienste te lewer, met inbegrip van winste uit die vervreemding van sodanige permanente saak (alleen of tesame met die onderneming in sy geheel) of sodanige vaste basis, kan in daardie ander Staat belas word.

3. Winst uit die vervreemding van skepe of vliegtuie wat in internasionale verkeer bedryf word, of roerende eiendom wat betrekking het op die bedryf van sodanige skepe of vliegtuie, is slegs in die Kontrakterende Staat waarin die plek van effektiewe bestuur van die onderneming geleë is, belasbaar.

4. Winst uit die vervreemding van enige eiendom, uitgesonderd dié in die voorgaande paragrawe van hierdie Artikel bedoel, is slegs in die Kontrakterende Staat waarvan die vervreemder 'n inwoner is, belasbaar.

Artikel 14

Onafhanklike Persoonlike Dienste

1. Inkomste verkry deur 'n inwoner van 'n Kontrakterende Staat ten opsigte van professionele dienste of ander werkzaamhede van 'n onafhanklike aard, is slegs in daardie Staat belasbaar, tensy hy 'n vaste basis in die ander Kontrakterende Staat gereeld tot sy beskikking het vir doeleinnes van die verrigting van sy werkzaamhede. Indien hy so 'n vaste basis het, kan die inkomste in die ander Kontrakterende Staat belas word maar dan slegs op soveel daarvan as wat aan daardie vaste basis toeskrybaar is.

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

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 183 days in the calendar year concerned, and
 - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
 - (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft 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***Director's Fees***

1. Director's fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.
2. Other remuneration, which a person to whom the provisions of paragraph 1 apply derives from the company in respect of the discharge of functions as an employee, shall be taxable in accordance with the provisions of Article 15.

Article 17***Artistes and Athletes***

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete 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 athlete are exercised.
3. Notwithstanding the provisions of paragraph 1, income derived by a resident of a Contracting State as an entertainer or an athlete from his personal activities as such exercised in the other Contracting State shall be taxable only in the first-mentioned State if those activities in the other State are supported mainly by public funds of the first-mentioned State, its local authorities or statutory bodies of either.

Artikel 15***Afhanklike Persoonlike Dienste***

1. Behoudens die bepalings 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 dienstbetrekking verkry word, slegs in daardie Staat belasbaar, tensy die dienstbetrekking in die ander Kontrakterende Staat beoefen word. Indien die dienstbetrekking aldus beoefen word, kan die besoldiging wat daaruit verkry word in daardie ander Staat belas word.
2. Ondanks die bepalings van paragraaf 1 is besoldiging wat deur 'n inwoner van 'n Kontrakterende Staat verkry word ten opsigte van 'n dienstbetrekking 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 183 dae gedurende die betrokke kalenderjaar 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 vaste basis wat die werkgever in die ander Staat het nie.
3. Ondanks die voorafgaande bepalings van hierdie Artikel kan besoldiging wat verkry word ten opsigte van 'n dienstbetrekking wat op 'n skip of vliegtuig in internasionale verkeer beoefen word, in die Kontrakterende Staat waarin die plek van effektiewe bestuur van die onderneming geleë is, belas word.

Artikel 16***Direkteursgelde***

1. 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.
2. Ander besoldiging, wat 'n persoon op wie paragraaf 1 van toepassing is, verkry van die maatskappy ten opsigte van die uitvoering van funksies as 'n werknemer, is ooreenkomsdig die bepalings van Artikel 15 belasbaar.

Artikel 17***Artieste en Atlete***

1. Ondanks die bepalings van Artikels 14 en 15, kan inkomste wat verkry word deur 'n inwoner van 'n Kontrakterende Staat as 'n verhoogkunstenaar, soos 'n teater-, rolprent-, radio- of televisie-arties, of as 'n musikant, of as 'n atleet, uit sy persoonlike bedrywighede as sodanig wat in die ander Kontrakterende Staat beoefen word, in daardie ander Staat belas word.
2. Waar inkomste ten opsigte van persoonlike bedrywighede wat deur 'n verhoogkunstenaar of atleet in dié hoedanigheid beoefen word, nie aan die verhoogkunstenaar of atleet 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 atleet uitgeoefen word.
3. Ondanks die bepalings van paragraaf 1 is inkomste verkry deur 'n inwoner van 'n Kontrakterende Staat as 'n verhoogkunstenaar of as 'n atleet uit sy persoonlike bedrywighede as sodanig in die ander Kontrakterende Staat beoefen, slegs in eersgenoemde Staat belasbaar indien sodanige bedrywighede in die ander Staat hoofsaaklik met staatsgeld van eersgenoemde Staat, sy plaaslike overhede of statutêre liggeme van een van hulle, ondersteun word.

4. Notwithstanding the provisions of paragraph 2, where income in respect of personal activities exercised by an entertainer or an athlete, resident of a Contracting State, in his capacity as such in the other Contracting State accrues not to the entertainer or athlete himself but to another person, that income, notwithstanding the provisions of Articles 7, 14 and 15, shall be taxable only in the first-mentioned State, if that other person is supported mainly by public funds of that State, its local authorities or statutory bodies of either.

Article 18

Pensions and Annuities

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid in consideration of past employment to a resident of a Contracting State and any annuity paid to such resident may be taxed in that State and shall be exempt from tax in the other Contracting State to the extent that they are subject to tax in the first-mentioned State.

Article 19

Public Remuneration

1. (a) Remuneration, other than a pension, paid by a Contracting State or a local authority thereof, or by a statutory body of either to an individual in respect of services rendered shall be taxable only in that State.
(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of, and a national of, that State without being also a national of the first-mentioned State.
2. (a) Any pension paid by, or out of funds created by, a Contracting State or a local authority thereof or a statutory body of either to an individual in respect of services rendered shall be taxable only in that State.
(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State without being also a national of the first-mentioned State.
3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a local authority thereof or by a statutory body of either.

Article 20

Students

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 21

Other Income

1. Any item of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State if such item of income is subject to tax in that State.

4. Ondanks die bepalings van paragraaf 2, waar inkomste ten opsigte van persoonlike bedrywighede beoefen deur 'n verhoogkunstenaar of atleet, wat 'n inwoner van 'n Kontrakterende Staat is, in dié hoedanigheid in die ander Kontrakterende Staat, nie aan die verhoogkunstenaar of atleet self toeval nie maar aan 'n ander persoon, is daardie inkomste, ondanks die bepalings van Artikels 7, 14 en 15, slegs in eersgenoemde Staat belasbaar, indien daardie ander persoon hoofsaaklik met staatsgeld van daardie Staat, sy plaaslike owerhede of statutêre liggame van een van hulle, ondersteun word.

Artikel 18

Pensioene en Annuïteite

Behoudens die bepalings van paragraaf 2 van Artikel 19, kan pensioene en ander soortgelyke besoldiging wat aan 'n inwoner van 'n Kontrakterende Staat betaal word as vergoeding vir eertydse diens, en enige annuïteit wat aan sodanige inwoner betaal word, in daardie Staat belas word, en is hulle in die ander Kontrakterende Staat van belasting vrygestel in die mate waarin hulle in eersgenoemde Staat aan belasting onderworpe is.

Artikel 19

Openbare Besoldiging

1. (a) Besoldiging, uitgesonderd 'n pensioen, betaal deur 'n Kontrakterende Staat of 'n plaaslike owerheid daarvan, of deur 'n statutêre liggaam van een van hulle, aan 'n individu ten opsigte van dienste gelewer, is slegs in daardie Staat belasbaar.

(b) Sodanige besoldiging is egter slegs in die ander Kontrakterende Staat belasbaar indien die dienste in daardie Staat gelewer word en die individu 'n inwoner van en 'n burger van daardie Staat is en nie ook 'n burger van eersgenoemde Staat is nie.

2. (a) Enige pensioen betaal deur, of uit fondse geskep deur, 'n Kontrakterende Staat of 'n plaaslike owerheid daarvan of 'n statutêre liggaam van een van hulle, aan 'n individu ten opsigte van dienste gelewer, is slegs in daardie Staat belasbaar.

(b) Sodanige pensioen is egter slegs in die ander Kontrakterende Staat belasbaar indien die individu 'n inwoner van, en 'n burger van, daardie Staat is en nie ook 'n burger van eersgenoemde Staat is nie.

3. Die bepalings van Artikels 15, 16 en 18 is van toepassing op besoldiging en pensioene ten opsigte van dienste gelewer in verband met enige besigheid wat deur 'n Kontrakterende Staat of 'n plaaslike owerheid daarvan of 'n statutêre liggaam van een van hulle gedryf word.

Artikel 20

Studente

Betalings wat 'n student of besigheidsvakleerling wat 'n inwoner is of onmiddellik voor sy besoek aan 'n Kontrakterende Staat 'n inwoner was van die ander Kontrakterende Staat, en wat uitsluitlik vir die doel van sy opvoeding of opleiding in eersgenoemde Staat teenwoordig is, vir die doel van sy onderhoud, opvoeding of opleiding ontvang, is nie in daardie Staat belasbaar nie, mits sodanige betalings uit 'n bron buite daardie Staat ontstaan.

Artikel 21

Ander Inkomste

1. Enige inkomste-item van 'n inwoner van 'n Kontrakterende Staat, waar dit ook al ontstaan, wat nie in die voorafgaande Artikels van hierdie Konvensie behandel is nie, is slegs in daardie Staat belasbaar indien sodanige inkomste-item in daardie Staat aan belasting onderworpe is.

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

Article 22

Capital

1. (a) Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.
(b) Shares or rights in a company or legal person the assets of which consist principally, directly or through the interposition of one or more other companies or legal persons, of immovable property situated in a Contracting State or of rights connected with such immovable property may be taxed in that State. For the purposes of this provision, immovable property pertaining to the industrial, commercial or agricultural operation of such company or legal person or to the performance of its independent personal services shall not be taken into account.
2. Capital represented by shares or rights (other than shares or rights referred to in subparagraph (b) of paragraph 1) forming part of a substantial interest in a company which is a resident of a Contracting State may be taxed in that State. A substantial interest shall be deemed to exist when a person, alone or together with related persons, holds directly or indirectly shares or rights the total of which gives right to at least 25 per cent of the profits of the company.
3. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.
4. Capital represented by ships and aircraft operated in international traffic and by movable property pertaining to the operation of such ships and aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
5. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 23

Elimination of Double Taxation

1. In the case of France, double taxation shall be avoided in the following manner:
 - (a) Income arising in South Africa, which may be taxed or shall be taxable only in that State in accordance with the provisions of this Convention, shall be taken into account for the computation of the French tax where the beneficiary of such income is a resident of France and where such income is not exempted from corporation tax according to French law. In that case, the South African tax shall not be deductible from such income, but the beneficiary shall be entitled to a tax credit against French tax. Such tax credit shall be equal:
 - (i) in the case of income other than that mentioned in sub-paragraph (ii), to the amount of French tax attributable to such income;

2. Die bepalings van paragraaf 1 is nie van toepassing op inkomste nie, uitgesonderd inkomste uit onroerende eiendom soos in paragraaf 2 van Artikel 6 omskryf, indien die ontvanger van sodanige inkomste, synde 'n inwoner van 'n Kontrakterende Staat, in die ander Kontrakterende Staat besigheid dryf deur middel 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 inkomste betaal word effektiief met sodanige permanente saak of vaste basis verbonde is. In so'n geval is die bepalings van Artikel 7 of Artikel 14, na gelang van die geval, van toepassing.

Artikel 22

Kapitaal

1. (a) Kapitaal bestaande uit onroerende eiendom in Artikel 6 bedoel, wat deur 'n inwoner van 'n Kontrakterende Staat besit word en in die ander Kontrakterende Staat geleë is, kan in daardie ander Staat belas word.

(b) Aandele of regte in 'n maatskappy of regspersoon waarvan die bates, regstreeks of deur die tussenvoeging van een of meer ander maatskappye of regspersone, hoofsaaklik bestaan uit onroerende eiendom in 'n Kontrakterende Staat geleë of uit regte gekoppel aan sodanige onroerende eiendom, kan in daardie Staat belas word. By die toepassing van hierdie bepaling word onroerende eiendom wat betrekking het op die industriële, handels- of landbouwerssaamhede van sodanige maatskappy of regspersoon, of op die verrigting van sy onafhanklike persoonlike dienste, nie in ag geneem nie.

2. Kapitaal bestaande uit aandele of regte (uitgesonderd aandele of regte in subparagraph (b) van paragraaf 1 bedoel) wat deel uitmaak van 'n wesenlike belang in 'n maatskappy wat 'n inwoner van 'n Kontrakterende Staat is, kan in daardie Staat belas word. 'n Wesenlike belang word geag te bestaan wanneer 'n persoon, alleen of tesame met verwante persone, regstreeks of onregstreeks aandele of regte hou waarvan die totaal die reg gee tot minstens 25 persent van die maatskappy se winste,

3. Kapitaal bestaande uit roerende eiendom wat deel uitmaak van die besigheidseiendom van 'n permanente saak wat 'n onderneming van 'n Kontrakterende Staat in die ander Kontrakterende Staat het, of van roerende eiendom wat betrekking het op 'n vaste basis wat vir 'n inwoner van 'n Kontrakterende Staat in die ander Kontrakterende Staat beskikbaar is met die doel om onafhanklike persoonlike dienste te lewer, kan in daardie ander Staat belas word.

4. Kapitaal bestaande uit skepe en vliegtuie wat in internasionale verkeer bedryf word en deur roerende eiendom wat betrekking het op die bedryf van sodanige skepe en vliegtuie is slegs in die Kontrakterende Staat waarin die plek van effektiewe bestuur van die onderneming geleë is, belasbaar.

5. Alle ander kapitaalelemente van 'n inwoner van 'n Kontrakterende Staat is slegs in daardie Staat belasbaar.

Artikel 23

Uitskakeling van Dubbele Belasting

1. In die geval van Frankryk word dubbele belasting soos volg vermy:

(a) Inkomste wat in Suid-Afrika ontstaan en wat ingevolge die bepalings van hierdie Konvensie slegs in daardie Staat belas kan word of belasbaar is, word in berekening gebring by die vasstelling van die Franse belasting waar die begunstige van sodanige inkomste 'n inwoner van Frankryk is en waar sodanige inkomste nie kragtens die Franse reg van maatskappybelasting vrygestel is nie. In daardie geval word die Suid-Afrikaanse belasting nie van sodanige inkomste afgetrek nie, maar is die begunstige op 'n belastingkrediet teen Franse belasting geregtig. Sodanige belastingkrediet is gelyk:

- (i) in die geval van ander inkomste as dié in subparagraph (ii) genoem, aan die bedrag aan Franse belasting wat aan sodanige inkomste toeskrybaar is;

(ii) in the case of income referred to in paragraph 2 of Article 10, paragraph 1 of Article 13, paragraph 3 of Article 15, paragraph 1 of Article 16 and paragraphs 1 and 2 of Article 17, to the amount of tax paid in South Africa in accordance with the provisions of those Articles; however, such tax credit shall not exceed the amount of French tax attributable to such income. It is understood that the term "amount of tax paid in South Africa" means the amount of South African tax effectively and definitively borne in respect of the income in question, in accordance with the provisions of the Convention, by the beneficiary who is a resident of France.

(b) (i) Where French domestic law allows companies which are residents of France to determine their taxable profits on a consolidation basis including the profits or losses of subsidiaries which are residents of South Africa or of permanent establishments situated in South Africa, the provisions of the Convention shall not prevent the application of that law.

(ii) Where, in accordance with its domestic law, France in determining the taxable profits of residents of France deducts the losses of subsidiaries which are residents of South Africa or of permanent establishments situated in South Africa and includes the profits of those subsidiaries or of those permanent establishments up to the amount of the losses so deducted, the provisions of the Convention shall not prevent the application of that law.

(iii) Nothing in the Convention shall prevent France from applying the provisions of Article 209 B of its tax code (code général des impôts) or any substantially similar provisions which may amend or replace the provisions of that Article.

(c) A resident of France who owns capital which may be taxed in South Africa according to paragraphs 1 and 2 of Article 22 shall also be taxable in France in respect of such capital. The French tax shall be computed by allowing a tax credit equal to the amount of the tax paid in South Africa on such capital. That tax credit shall not exceed the amount of the French tax attributable to such capital.

2. In the case of South Africa, double taxation shall be avoided in the following manner: taxes paid by residents of South Africa in respect of income or capital taxable in France, in accordance with the provisions of the Convention, shall be deducted from the South African taxes due. Such deduction shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable to the income or capital which may be taxed in France.

3. (a) As regards the provisions of subparagraphs (a) and (c) of paragraph 1:

(i) it is understood that the term "amount of French tax attributable to such income" means:

- (aa) 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;
- (bb) where the tax on such income is computed by applying a progressive scale, the amount of the net income concerned multiplied by the rate resulting from the ratio of the tax actually payable on the total net income taxable in accordance with French law to the amount of that total net income;

(ii) the same interpretation shall apply by analogy to the term "amount of French tax attributable to such capital".

(b) As regards the application of the provisions of paragraph 2, it is understood that the amount of tax which is attributable to such income or capital which has been subjected to tax in France shall be:

(i) where the tax on such income or capital is computed by applying a proportional rate, the amount of the net income or capital concerned multiplied by the rate which actually applies to that income or capital; and

(ii) in die geval van inkomste bedoel in paragraaf 2 van Artikel 10, paragraaf 1 van Artikel 13, paragraaf 3 van Artikel 15, paragraaf 1 van Artikel 16 en paragrawe 1 en 2 van Artikel 17, aan die bedrag aan belasting wat in Suid-Afrika betaal is ooreenkomstig die bepalings van daardie Artikels; sodanige belastingkrediet gaan egter nie die bedrag aan Franse belasting te bowe wat aan sodanige inkomste toeskrybaar is nie. Daar word ooreengekom dat die uitdrukking "bedrag aan belasting in Suid-Afrika betaal" die bedrag aan Suid-Afrikaanse belasting beteken wat effektiel en definitief gedra is ten opsigte van die betrokke inkomste, ooreenkomstig die bepalings van hierdie Konvensie, deur die begunstigde wat 'n inwoner van Frankryk is.

(b) (i) Waar maatskappye wat inwoners van Frankryk is ingevolge Franse landsreg toegelaat word om hul belasbare winste op 'n gekonsolideerde grondslag te bereken, met inbegrip van die winste of verliese van filiale wat inwoners van Suid-Afrika is of van permanente sake in Suid-Afrika geleë, verhoed die bepalings van hierdie Konvensie nie die toepassing van daardie wet nie.

(ii) Waar, ingevolge sy landsreg, Frankryk by die vasstelling van die belasbare winste van inwoners van Frankryk, die verliese aftrek van filiale wat inwoners van Suid-Afrika is of van permanente sake wat in Suid-Afrika geleë is, en die winste van daardie filiale of van daardie permanente sake insluit tot en met die bedrag van die verliese aldus afgetrek, verhoed die bepalings van hierdie Konvensie nie die toepassing van daardie wet nie.

(iii) Niks in hierdie Konvensie verhoed Frankryk om die bepalings van Artikel 209 B van sy belastingwet (code général des impôts) of enige wesenlik soortgelyke bepalings wat die bepalings van daardie Artikel wysig of vervang, toe te pas nie.

(c) 'n Inwoner van Frankryk wat kapitaal besit wat ooreenkomstig die bepalings van paragrawe 1 en 2 van Artikel 22 in Suid-Afrika belas kan word, is ook in Frankryk ten opsigte van sodanige kapitaal belasbaar. By die vasstelling van die Franse belasting word 'n belastingkrediet toegestaan gelyk aan die bedrag aan belasting wat op sodanige kapitaal in Suid-Afrika betaal is. Sodaanige belastingkrediet gaan nie die bedrag van die Franse belasting te bowe wat aan sodanige kapitaal toeskrybaar is nie.

2. In die geval van Suid-Afrika word dubbele belasting op die volgende wyse vermy: belastings deur inwoners van Suid-Afrika betaal ten opsigte van inkomste of kapitaal wat ooreenkomstig die bepalings van hierdie Konvensie in Frankryk belasbaar is, word van die verskuldigde Suid-Afrikaanse belastings afgetrek. Sodaanige aftrekking gaan egter nie daardie gedeelte van die inkomstebelasting of kapitaalbelasting, soos vasgestel voordat die aftrekking toegestaan word, wat toeskrybaar is aan die inkomste of kapitaal wat in Frankryk belas kan word te bowe nie.

3. (a) Wat die bepalings van subparagrawe (a) en (c) van paragraaf 1 betref:

(i) word verstaan dat die uitdrukking "bedrag van Franse belasting toeskrybaar aan sodanige inkomste" beteken:

- (aa) waar die belasting op sodanige inkomste deur die toepassing van 'n proporsionele koers bereken word, die bedrag van die netto inkomste betrokke, vermenigvuldig met die koers wat werklik op daardie inkomste van toepassing is;
- (bb) waar die belasting op sodanige inkomste deur die toepassing van 'n progressiewe skaal bereken word, die bedrag van die netto inkomste betrokke, vermenigvuldig met die koers voortspruitend uit die verhouding van die belasting werklik betaalbaar op die totale netto inkomste belasbaar ooreenkomstig die Franse reg tot die bedrag van daardie totale netto inkomste;

(ii) dieselfde vertolking by analogie van toepassing is op die uitdrukking "bedrag van Franse belasting toeskrybaar aan sodanige kapitaal".

(b) Wat die toepassing van die bepalings van paragraaf 2 betref, word verstaan dat die bedrag van belasting wat toeskrybaar is aan sodanige inkomste of kapitaal wat in Frankryk aan belasting onderworpe was, sal wees:

(i) waar die belasting op sodanige inkomste of kapitaal deur die toepassing van 'n proporsionele koers bereken word, die bedrag van die netto inkomste of kapitaal betrokke, vermenigvuldig met die koers wat werklik op daardie inkomste of kapitaal van toepassing is; en

- (ii) where the tax on such income or capital is computed by applying a progressive scale, an amount which bears to the net income or capital concerned the same ratio as the total tax actually payable bears to the total net income or capital which is subject to tax in accordance with South African law.

Article 24

Non-discrimination

1. Individuals possessing the nationality 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 individuals possessing the nationality of that other State in the same circumstances, in particular as regards their residence, are or may be subjected.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
3. Except where the provisions of paragraph 1 of Article 9, paragraph 5 of Article 11 or paragraph 5 of Article 12 of this Convention apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall be deductible, for the purpose of determining the taxable profits of that enterprise, under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of that enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.
4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.
5. Payments made by an individual who is a resident of a Contracting State, to a pension scheme established in the other Contracting State may be relieved from tax in the first-mentioned State provided that the pension scheme is accepted by the competent authority of that State as corresponding to a pension scheme recognised as such for tax purposes by that State; in such case relief from tax shall be given in the same way as if the pension scheme was recognised as such by that State.
6. Subject to mutual agreement between the competent authorities, the exemptions and other advantages provided by the tax laws of a Contracting State for the benefit of that Contracting State or its local authorities or of statutory bodies of either which carry on a non-business activity shall apply under the same conditions respectively to the other Contracting State or its local authorities or to statutory bodies of either, which carry on the same or similar activity. Notwithstanding the provisions of paragraph 7, the provisions of this paragraph shall not apply to taxes or duties payable in consideration for services rendered.
7. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.
8. If any treaty, agreement or convention between the Contracting States, other than this Convention, includes a non-discrimination clause or a most-favoured nation clause, it is understood that only the provisions of this Convention, to the exclusion of such clauses, shall apply in tax matters.

- (ii) waar die belasting op sodanige inkomste of kapitaal deur die toepassing van 'n progressiewe skaal bereken word; 'n bedrag wat in dieselfde verhouding tot die netto inkomste of kapitaal staan as die verhouding waarin die totale belasting werklik betaalbaar tot die totale netto inkomste of kapitaal wat ooreenkomsig Suid-Afrikaanse reg aan belasting onderworpe is, staan.

Artikel 24

Nie-diskriminasie

1. Individue wat burgerskap van 'n Kontrakterende Staat besit 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 verbonde vereistes waaraan individue wat burgerskap van daardie ander Staat besit onder dieselfde omstandighede, veral wat betref hulle inwoning, onderworpe is of onderwerp kan word nie.
2. Die belasting op 'n permanente saak wat 'n onderneming van 'n Kontrakterende Staat in die ander Kontrakterende Staat het, word nie in daardie ander Kontrakterende Staat op 'n minder gunstige wyse gehef as die belasting wat gehef word op ondernemings van daardie ander Staat wat dieselfde bedrywigheid beoefen nie. Hierdie bepaling word nie uitgelê as sou dit 'n Kontrakterende Staat verplig om aan inwoners van die ander Kontrakterende Staat enige persoonlike toelatings, verligtings of verminderings vir belastingdoeleindes uit hoofde van burgerlike status of gesinsverantwoordelikhede toe te staan wat hy aan sy eie inwoners toestaan nie.
3. Behalwe waar die bepalings van paragraaf 1 van Artikel 9, paragraaf 5 van Artikel 11 of paragraaf 5 van Artikel 12 van hierdie Konvensie van toepassing is, is rente, tantièmes en ander uitbetelings deur 'n onderneming van 'n Kontrakterende Staat aan 'n inwoner van die ander Kontrakterende Staat, vir doeleindes van die vasstelling van die belasbare winste van sodanige onderneming, onder dieselfde omstandighede aftrekbaar asof dit aan 'n inwoner van eersgenoemde Staat betaal was. Eweneens is enige skulde van 'n onderneming van 'n Kontrakterende Staat aan 'n inwoner van die ander Kontrakterende Staat, by die vasstelling van die belasbare kapitaal van sodanige onderneming, onder dieselfde omstandighede aftrekbaar asof hulle met 'n inwoner van eersgenoemde Staat ooreengekom was.
4. 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, word nie in eersgenoemde Staat onderwerp aan enige belasting of enige vereiste in verband daarmee wat anders is of swaarder druk as die belasting en die daaroor verbonde vereistes waaraan ander soortgelyke ondernemings van eersgenoemde Staat onderworpe is of onderwerp kan word nie.
5. Betalings gemaak deur 'n individu wat 'n inwoner van 'n Kontrakterende Staat is aan 'n pensioenskema wat in die ander Kontrakterende Staat ingestel is, kan in eersgenoemde Staat van belasting vrygestel word, mits die bevoegde owerhede van daardie Staat die pensioenskema aanvaar as ooreenstemmend met 'n pensioenskema wat deur daardie Staat vir belastingdoeleindes erken word; in daardie geval word belastingverligting op dieselfde wyse toegestaan asof die pensioenskema deur daardie Staat erken was.
6. Behoudens onderlinge ooreenkoms tussen die bevoegde owerhede is die vrystellings en ander voordele wat deur die belastingwette van 'n Kontrakterende Staat verleen word tot voordeel van daardie Kontrakterende Staat of sy plaaslike owerhede of van statutêre liggeme van een van hulle wat 'n nie-besigheidsaktiwiteit bedryf, onder dieselfde omstandighede onderskeidelik van toepassing op die ander Kontrakterende Staat of sy plaaslike owerhede of op statutêre liggeme van een van hulle, wat dieselfde of 'n soortgelyke aktiwiteit bedryf. Ondanks die bepalings van paragraaf 7 is die bepalings van hierdie paragraaf nie van toepassing nie op belastings of regte betaalbaar as teenprestasie vir dienste gelewer.
7. Die bepalings van hierdie Artikel is, ondanks die bepalings van Artikel 2, van toepassing op belastings van elke soort en beskrywing.
8. As enige verdrag, ooreenkoms of konvensie tussen die Kontrakterende State, uitgesonderd hierdie Konvensie, 'n nie-diskriminasieklausule of 'n meesbevoorregtenasieklausule insluit, word daar aanvaar dat slegs die bepalings van hierdie Konvensie, tot uitsluiting van daardie klausules, op belastingaangeleenthede van toepassing is.

Article 25***Mutual Agreement Procedure***

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. 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 the application of the Convention. In particular, they may consult together to endeavour to agree to the same allocation of income between associated enterprises mentioned in Article 9. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

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

Article 26***Exchange of Information***

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

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

Artikel 25***Prosedure vir Onderlinge Ooreenkoms***

1. Wanneer 'n persoon van mening is dat die optrede van een van of van albei die Kontrakterende State tot gevolg het of sal hê dat belasting nie ooreenkombig die bepalings van hierdie Konvensie gehef word nie, kan hy, ondanks die regsmiddels waarvoor die landsreg van daardie Kontrakterende State voorsiening maak, sy saak stel aan die bevoegde owerheid van die Kontrakterende Staat waarvan hy 'n inwoner is. Die saak moet gestel word binne drie jaar vanaf die eerste kennisgewing van die handeling wat aanleiding gee daar toe dat belasting nie ooreenkombig die bepalings van hierdie Konvensie gehef word nie.

2. Die bevoegde owerheid moet, indien die beswaar vir hom geregverdig voorkom en hy nie self 'n gesikte 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 Konvensie is nie. Enige ooreenkoms wat bereik word, word ondanks enige tydsbeperking 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 Konvensie ontstaan, deur onderlinge ooreenkoms uit die weg te ruim. Hulle kan mekaar in die besonder raadpleeg en probeer om ooreen te kom oor dieselfde toedeling van inkomste tussen verwante ondernemings in Artikel 9 bedoel. Hulle kan mekaar ook raadpleeg met die oog op die uitskakeling van dubbele belasting in gevalle waarvoor daar nie in hierdie Konvensie 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 dit blyk dat die mondelinge wisseling van menigs raadsaam is ten einde tot 'n ooreenkoms te geraak, kan sodanige meningswisseling plaasvind deur 'n kommissie bestaande uit die verteenwoordigers van die bevoegde owerhede van albei Kontrakterende State.

Artikel 26***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 Konvensie of die landsreg van die Kontrakterende State aangaande belastings deur hierdie Konvensie gedek vir sover die belasting daarvolgens nie teenstrydig met hierdie Konvensie 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 of vervolging met betrekking tot, of die beslissing van appelle in verband met, die belastings deur hierdie Konvensie gedek. Sodanige persone of owerhede mag die inligting net vir hierdie doeleindes gebruik. Hulle kan die inligting by openbare hofverrigtinge of by regterlike beslissings gebruik.

2. In geen geval word die bepalings van paragraaf 1 uitgelê nie as sou dit 'n Kontrakterende Staat die verpligting ople om:

- (a) administratiewe maatreëls uit te voer watstrydig is met die wette en 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 verkrybaar 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 openbaarmakingstrydig met die openbare beleid (ordre public) sou wees.

Article 27***Diplomatic Agents and Consular Officers***

1. Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions and their personal domestics, of members of consular posts, or of members of permanent missions to international organisations under the general rules of international law or under the provisions of special agreements.
2. Notwithstanding the provisions of Article 4, an individual who is a member of a diplomatic mission, consular post or permanent mission of a Contracting State which is situated in the other Contracting State or in a third State shall be deemed for the purposes of the Convention to be a resident of the sending State if he is liable in the sending State to the same obligations in relation to tax on his total income or on capital as are residents of that State.
3. The Convention shall not apply to international organisations, to organs or officials thereof and to persons who are members of a diplomatic mission, consular post or permanent mission of a third State, being present in a Contracting State and not liable in either Contracting State to the same obligations in relation to tax on their total income or on capital as are residents of those States.

Article 28***Miscellaneous rules***

1. Nothing in this Convention shall prevent France from applying the provisions of Article 212 of its tax code (code général des impôts), or any substantially similar provisions enacted in France which may amend or replace the provisions of that Article.
2. In respect of Articles 10 and 11, an investment company or fund, which is situated in a Contracting State where it is not subject to a tax mentioned in sub-paragaphs (a)(i) or (ii) or in sub-paragraph (b) of paragraph 3 of Article 2, and receives dividends or interest arising in the other Contracting State can ask for the aggregate amount of the tax reductions or exemptions or other advantages provided by the Convention in the proportion of such income which corresponds to the rights in the company or fund held by residents of the first-mentioned State and which is taxable in the hands of those residents.

Article 29***Mode of application***

1. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Convention.
2. In order to obtain, in a Contracting State, the benefits provided for by the Convention, the residents of the other Contracting State shall, if the competent authorities so agree, present a form of certification of residence providing in particular the nature and the amount or value of the income or capital concerned, and including the certification of the tax administration of that other State.

Artikel 27**Diplomatieke Agente en Konsulêre Beamptes.**

1. Niks in hierdie Konvensie raak die fiskale voorregte van lede van diplomatieke missies en hulle persoonlike bediendes, of lede van konsulêre poste, of lede van permanente missies van internasionale organisasies ingevolge die algemene reëls van die volkereg of ingevolge die bepalings van spesiale ooreenkomste nie.
2. Ondanks die bepalings van Artikel 4 word 'n individu wat 'n lid is van 'n diplomatieke missie, konsulêre pos of permanente missie van 'n Kontrakterende Staat wat in die ander Kontrakterende Staat of in 'n derde Staat geleë is, by die toepassing van die Konvensie geag 'n inwoner van die Senderstaat te wees indien hy in die Senderstaat onderworpe is aan dieselfde verpligtinge met betrekking tot belasting op sy totale inkomste of op kapitaal as inwoners van sodanige Staat.
3. Die Konvensie is nie van toepassing nie op internasionale organisasies, op liggeme of beampes daarvan en op persone wat lede is van 'n diplomatieke missie, konsulêre pos of permanente missie van 'n derde Staat, wat in 'n Kontrakterende Staat teenwoordig is en nie in enige van die Kontrakterende State onderworpe is aan dieselfde verpligtinge met betrekking tot belasting op hulle totale inkomste of op kapitaal as inwoners van daardie State nie.

Artikel 28**Diverse Reëls**

1. Niks in hierdie Konvensie verhoed Frankryk om die bepalings van Artikel 212 van sy belastingwet (*code général des impôts*), of enige wesenlik soortgelyke bepalings wat in Frankryk verorden word wat die bepalings van hierdie Artikel wysig of vervang, toe te pas nie.
2. Ten opsigte van Artikels 10 en 11, kan 'n beleggingsmaatskappy of -fonds wat geleë is in 'n Kontrakterende Staat waar dit nie aan 'n in subparagraph (a)(i) of (ii) of subparagraph (b) van paragraaf 3 van Artikel 2 bedoelde belasting onderworpe is nie, en wat dividende of rente ontvang wat in die ander Kontrakterende Staat ontstaan, aanspraak maak op die totale bedrag van die belastingvermindering of -vrystellings of ander voordele deur die Konvensie voorsien in die verhouding van daardie inkomste wat ooreenstem met die belang in die maatskappy of fonds wat deur inwoners van eersgenoemde Staat gehou word en wat in die hande van daardie inwoners belasbaar is.

Artikel 29**Wyse van toepassing**

1. Die bevoegde owerhede van die Kontrakterende State kan die wyse van toepassing van hierdie Konvensie deur onderlinge ooreenkoms bepaal.
2. Ten einde, in 'n Kontrakterende Staat, die voordele te bekom waarvoor daar in hierdie Konvensie voorsiening gemaak word, lê die inwoners van die ander Kontrakterende Staat, indien die bevoegde owerhede aldus ooreenkom, 'n vorm van sertifisering van verblyf voor wat veral die aard en die bedrag of waarde van die betrokke inkomste of kapitaal aandui, en wat ook deur die belastingowerheid van die ander Staat gesertifiseer is.

Article 30***Territorial extension***

1. This Convention may be extended, either in its entirety or with any necessary modifications, to the overseas territories and other local authorities of the French Republic which impose taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner, in accordance with their constitutional procedures.

2. Unless otherwise agreed by both Contracting States, the termination of the Convention by one of them under Article 32 shall also terminate, in the manner provided for in that Article, the application of the Convention to any territory and local authority to which it has been extended under this Article.

Article 31***Entry into force***

1. Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Convention. The Convention shall enter into force on the first day of the second month following the day when the later of these notifications has been received.

2. The provisions of the Convention shall have effect:

- (a) in respect of taxes withheld at source, for amounts taxable after the calendar year in which the Convention enters into force;
- (b) in respect of other taxes on income, for income relating to any calendar year or accounting period beginning after the calendar year in which the Convention enters into force;
- (c) in respect of the capital tax, for capital owned on 1st January of any year following the calendar year in which the Convention enters into force.

3. The Agreement between the Government of the French Republic and the Government of the Republic of South Africa for the exemption from certain taxes in respect of companies carrying on business of sea and air transport, which came into force on 1 April 1955, shall not have any effect for any year or period for which this Convention has effect.

Article 32***Termination***

1. This Convention shall remain in force indefinitely. However, after a period of five calendar years from the date on which the Convention enters into force, either Contracting State may terminate it through diplomatic channels by giving notice of termination at least six months before the end of any calendar year.

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

- (a) in respect of taxes withheld at source, for amounts taxable after the calendar year in which the notice of termination is given;
- (b) in respect of other taxes on income, for income relating to any calendar year or accounting period beginning after the calendar year in which the notice of termination is given;
- (c) in respect of the capital tax, for capital owned on 1st January of any calendar year beginning after the calendar year in which the notice of termination is given.

Artikel 30**Gebiedsuitbreiding**

1. Hierdie Konvensie mag óf in sy geheel óf met enige noodsaaklike wysigings uitgebrei word tot die oorsese gebiede en ander plaaslike owerhede van die Franse Republiek wat belastings ople wat van 'n wesenlik soortgelyke aard is as dié waarop die Konvensie van toepassing is. Enige sodanige uitbreiding tree in werking vanaf die datum en onderworpe aan die wysigings en voorwaarde, met inbegrip van voorwaarde betreffende opsegging, wat deur die Kontrakterende State uiteengesit en ooreengekom word deur middel van diplomatieke notawisseling, of op enige ander wyse ooreenkomstig hulle grondwetlike procedures.

2. Tensy albei Kontrakterende State anders ooreenkom, bring die opsegging van hierdie Konvensie deur een van hulle ingevolge Artikel 32 ook die beëindiging mee, op die wyse in daardie Artikel bepaal, van die toepassing van die Konvensie op enige gebied en plaaslike owerheid waartoe dit ingevolge hierdie Artikel uitgebrei is.

Artikel 31**Inwerkintreding**

1. Elke Kontrakterende Staat stel die ander in kennis van die afhandeling van die procedures wat ingevolge sy reg benodig word om hierdie Konvensie in werking te laat tree. Die Konvensie tree in werking op die eerste dag van die tweede maand wat volg op die dag waarop die laaste van hierdie kennisgewings ontvang is.

2. Die bepalings van die Konvensie is van toepassing:

- (a) ten opsigte van belastings wat by die bron teruggehou word, op bedrae wat belasbaar word na die kalenderjaar waarin die Konvensie in werking tree;
- (b) ten opsigte van ander belastings op inkomste, op inkomste wat betrekking het op enige kalenderjaar of rekeningkundige tydperk wat begin na die kalenderjaar waarin die Konvensie in werking tree;
- (c) ten opsigte van belasting op kapitaal, op kapitaal wat op 1 Januarie van enige jaar wat volg op die kalenderjaar waarin die Konvensie in werking tree, besit word.

3. Die Ooreenkoms tussen die Regering van die Franse Republiek en die Regering van die Republiek van Suid-Afrika vir die vrystelling van sekere belastings ten opsigte van maatskappye wat die besigheid van see- en lugvervoer dryf, wat op 1 April 1955 in werking getree het, is nie van toepassing op enige jaar of tydperk waarop hierdie Konvensie van toepassing is nie.

Artikel 32**Opsegging**

1. Hierdie Konvensie bly vir 'n onbepaalde tyd van krag. Enigeen van die Kontrakterende State kan, na 'n tydperk van vyf kalenderjare vanaf die datum waarop die Konvensie in werking tree, dit egter opsê langs diplomatieke kanale deur kennis van opsegging te gee minstens ses maande voor die einde van enige kalenderjaar.

2. In daardie geval is die Konvensie nie meer van toepassing nie:

- (a) ten opsigte van belastings wat by die bron teruggehou word, op bedrae wat belasbaar word na die kalenderjaar waarin kennis van opsegging gegee is;
- (b) ten opsigte van ander belastings op inkomste, op inkomste wat betrekking het op enige kalenderjaar of rekeningkundige tydperk wat begin na die kalenderjaar waarin kennis van opsegging gegee is;
- (c) ten opsigte van belasting op kapitaal, op kapitaal wat op 1 Januarie van enige kalenderjaar wat begin na die kalenderjaar waarin kennis van opsegging gegee is, besit word.

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

DONE at Paris, this eighth day of November, 1993, in duplicate, in the French and English languages, both texts being equally authentic.

(Signed) T.G.Alant

FOR THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA

(Signed) N.Sarkozy

FOR THE GOVERNMENT OF
THE FRENCH REPUBLIC

TEN BEWYSE WAARVAN die ondergetekendes, behoorlik daartoe gemagtig, hierdie Konvensie onderteken het.

GEDOEN te Parys op hede die agste dag van November, 1993, in tweevoud, in die Franse en Engelse taal,
waarvan albei tekste ewe outentiek is.

(Geteken) T.G.Alant

NAMENS DIE REGERING VAN DIE
REPUBLIEK VAN SUID-AFRIKA

(Geteken) N.Sarkozy

NAMENS DIE REGERING VAN
DIE FRANSE REPUBLIEK

IMPORTANT ANNOUNCEMENT

Closing times PRIOR TO PUBLIC HOLIDAYS for

**LEGAL NOTICES 1995
GOVERNMENT NOTICES**

The closing time is 15:00 sharp on the following days:

- **21 September, Thursday, for the issue of Friday 29 September**
- **20 December, Wednesday, for the issue of Friday 29 December**
- **28 December, Thursday, for the issue of Friday 5 January 1996**

Late notices will be published in the subsequent issue, if under special circumstances, a late notice is being accepted, a double tariff will be charged

The copy for a SEPARATE Government Gazette must be handed in not later than three calendar weeks before date of publication

BELANGRIKE AANKONDIGING

Sluitingstye VOOR VAKANSIEDAE vir

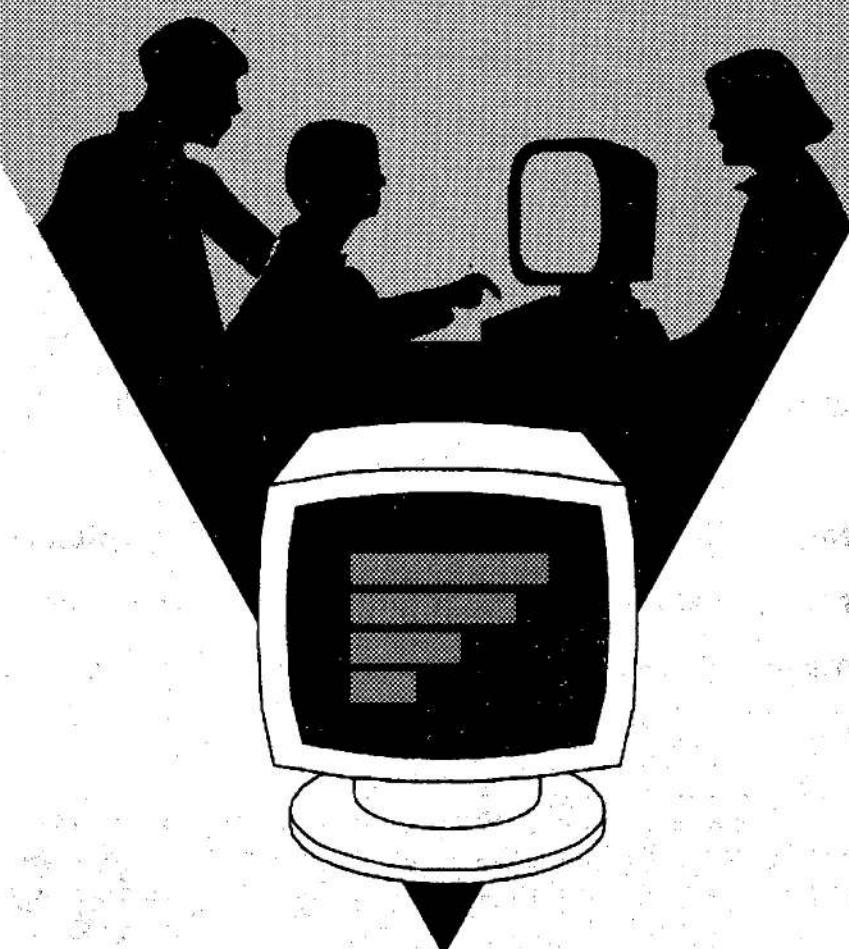
**WETLIKE KENNISGEWINGS 1995
GOEWERMENTSKENNISGEWINGS**

Die sluitingstyd is stiptelik 15:00 op die volgende dae:

- **21 September, Donderdag, vir die uitgawe van Vrydag 29 September**
- **20 Desember, Woensdag, vir die uitgawe van Vrydag 29 Desember**
- **28 Desember, Donderdag, vir die uitgawe van Vrydag 5 Januarie 1996**

Laat kennisgewings sal in die daaropvolgende uitgawe geplaas word. Indien 'n laat kennisgewing wel, onder spesiale omstandighede, aanvaar word, sal 'n dubbeltarief gehef word.

Wanneer 'n APARTE Staatskoerant verlang word moet die kopies drie kalenderweke voor publikasie inge-dien word



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- ✓ Available via a number of public electronic networks including Internet, Easy Access and Beltel
- ✓ Information available within two working days of publication
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Why an Electronic Government Gazette?

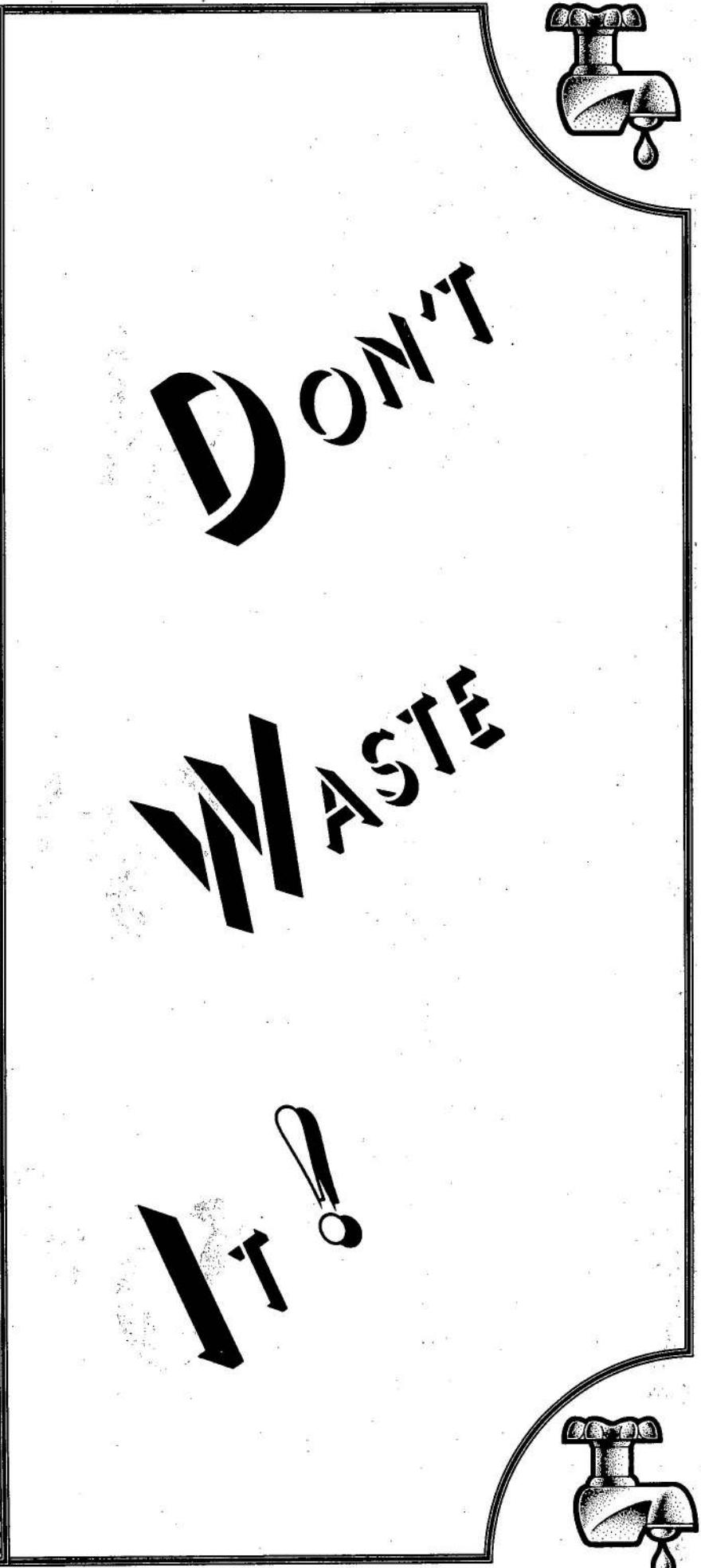
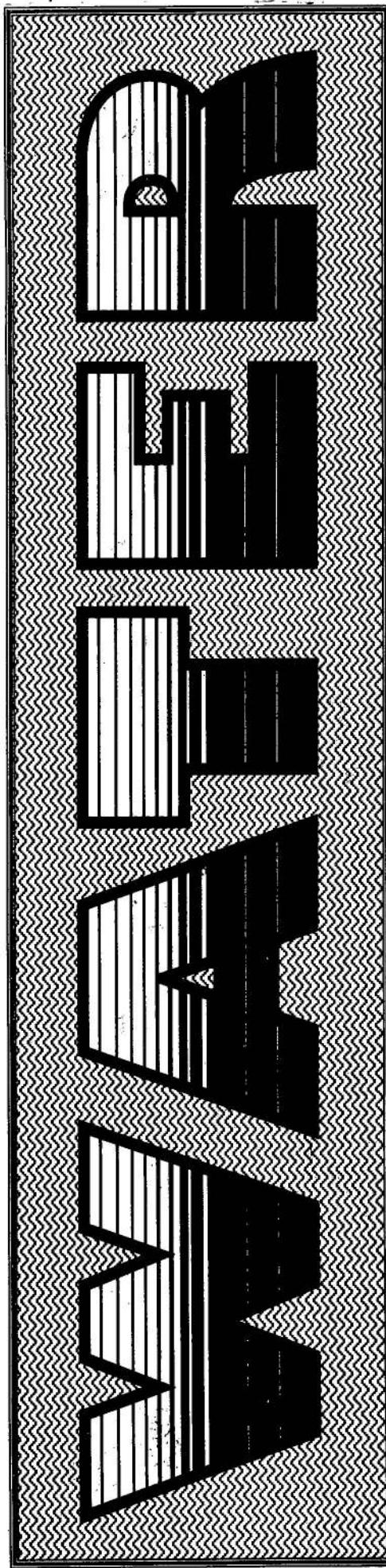
- ✓ Eliminate unnecessary paper storage and wading through stacks of paper copies
- ✓ Provides immediate access to the information you are looking for - search by topic or notice type
- ✓ User friendly application - quick and effective with context sensitive online help

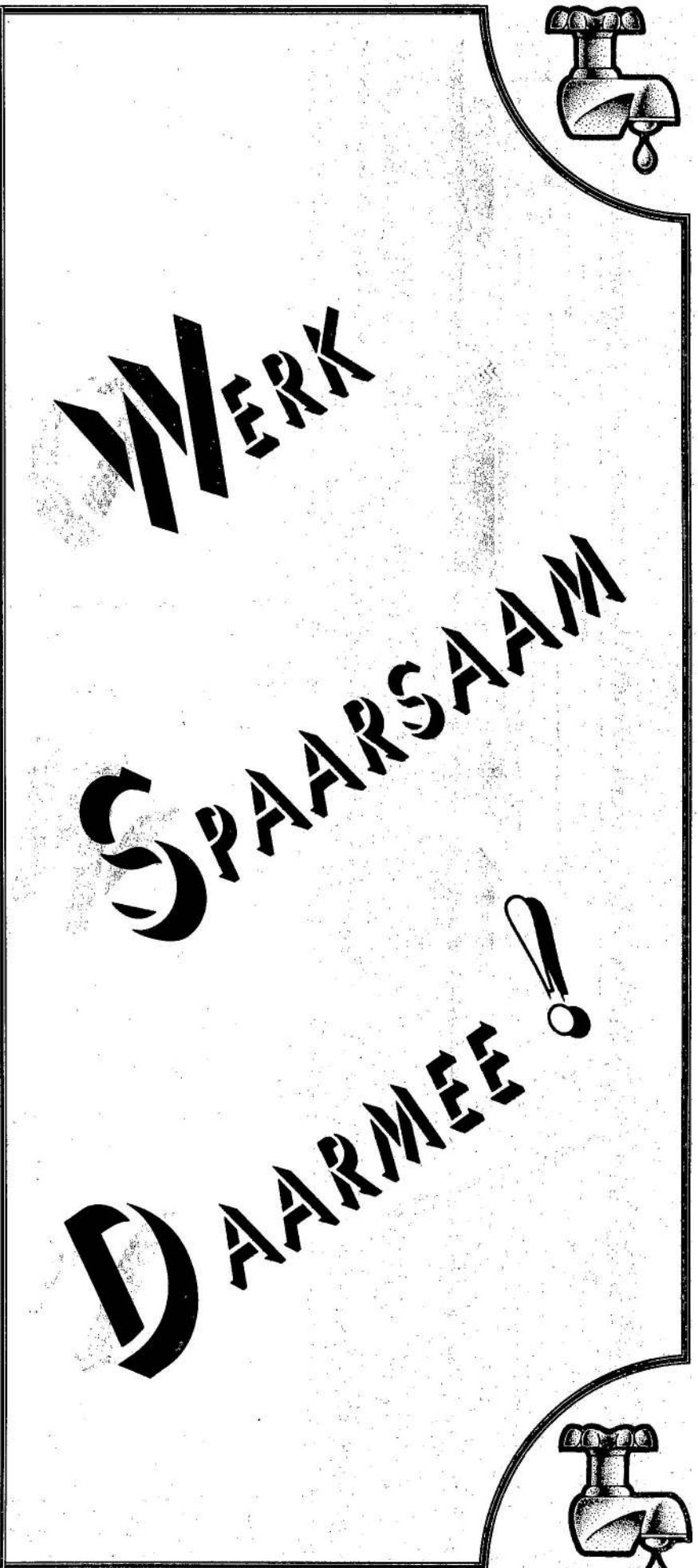
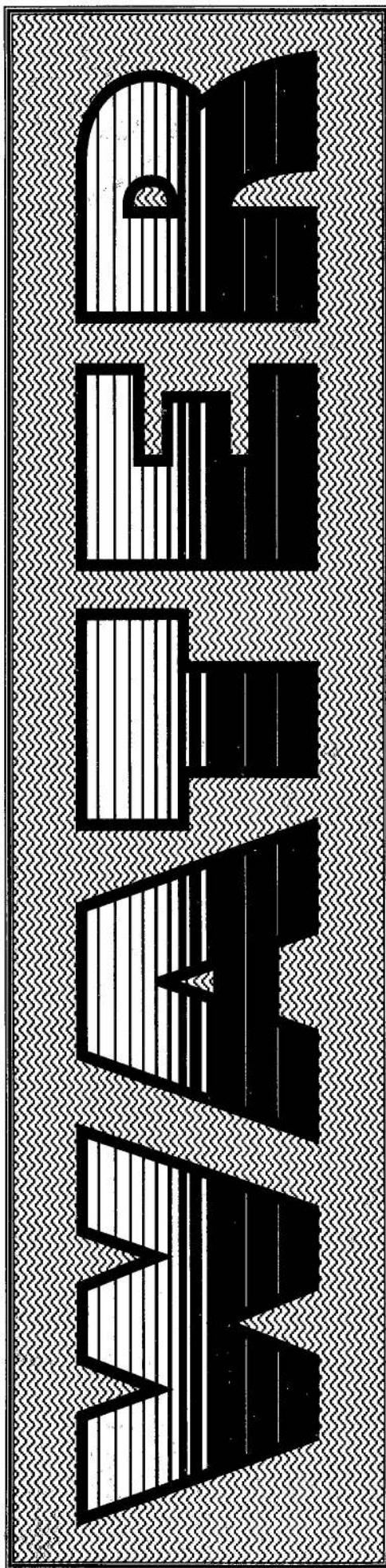


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