

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



Preamble

The Government of the Republic of South Africa and the Government of the Kingdom of Denmark
desire to promote and strengthen the economic relations between the two countries.

Have agreed as follows:

Article 1

REPUBLIC
OF
SOUTH AFRICA



REPUBLIEK
VAN
SUID-AFRIKA

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GOVERNMENT NOTICE

GOEWERMENSKENNISGEWING

DEPARTMENT OF FINANCE

DEPARTEMENT VAN FINANSIES

No. 1986

22 December 1995

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

No. 1986

22 Desember 1995

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

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

Preamble

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

Have agreed as follows:

Article 1

Personal Scope

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

Article 2

Taxes Covered

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

(a) in Denmark:

- (i) the income tax to the State (indkomstskatten til staten);
- (ii) the income tax to the municipalities (den kommunale indkomstskat);
- (iii) the income tax to the county municipalities (den amtskommunale indkomstskat); and
- (iv) taxes imposed under the Hydrocarbon Tax Act (skatter i henhold til kulbrinteskatteloven);

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

(b) in South Africa:

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

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

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

3. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws.

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

Aanhel

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

Soos volg ooreengekom:

Artikel 1

Persoonlike Omvang

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

Artikel 2

Belastings Gedek

1. Die bestaande belastings waarop die Konvensie van toepassing is, is in die besonder:

(a) in Denemarke:

- (i) die inkomstebelasting aan die Staat (indkomstskatten til staten);
- (ii) die inkomstebelasting aan die munisipaliteite (den kommunale indkomstskat);
- (iii) die inkomstebelasting aan die distriksmunisipaliteite (den amtskommunale indkomstskat); en
- (iv) die belasting gehef ingevolge die Wet op Koolwaterstofbelasting (skatter i henhold til kulbrinteskatteloven);

(hierna "Deense belasting" genoem); en

(b) in Suid-Afrika:

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

(hierna "Suid-Afrikaanse belasting" genoem).

2. Hierdie Konvensie is ook van toepassing op enige ander belastings van 'n wesenlik soortgelyke aard wat, na die datum van ondertekening van die Konvensie, bykomend by of in plaas van die bestaande belastings opgelê word.

3. Die bevoegde owerhede van die Kontrakterende State stel mekaar in kennis van enige wesenlike veranderinge wat in hul onderskeie belastingwette aangebring is.

Article 3**General Definitions**

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

- (a) the term "Denmark" means the Kingdom of Denmark including any area outside the territorial sea of Denmark which in accordance with international law has been or may hereafter be designated under Danish laws as an area within which Denmark may exercise sovereign rights with respect to the exploration and exploitation of the natural resources of the sea-bed or its subsoil and the superjacent waters and with respect to other activities for the exploration and economic exploitation of the area; the term does not comprise the Faroe Islands and Greenland; and
- (b) the term "South Africa" means the Republic of South Africa and, when used in a geographical sense, includes the territorial sea thereof as well as any area outside the territorial sea, including the continental shelf, which has been or may hereafter be designated, under the laws of South Africa and in accordance with international law, as an area within which South Africa may exercise sovereign rights or jurisdiction;
- (c) the terms "a Contracting State" and "the other Contracting State" mean Denmark or South Africa as the context requires;
- (d) the term "company" means any body corporate or any entity which is treated as a company or body corporate for tax purposes;
- (e) the term "competent authority" means:
 - (i) in Denmark, the Minister for Taxation or his authorised representative; and
 - (ii) in South Africa, the Commissioner for Inland Revenue or his authorised representative;
- (f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (h) the term "national" means:
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State; and
- (i) the term "person" includes an individual, a company and any other body of persons.

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

Article 4**Resident**

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

- (a) in the case of Denmark, any person who, under the laws of Denmark, is liable to tax therein by reason of his residence, place of management or any other criterion of a similar nature. This term does not include any person who is liable to tax in Denmark in respect only of income from sources in Denmark or capital situated therein; and
- (b) in the case of South Africa, any individual who is ordinarily resident in South Africa and any other person which has its place of effective management in South Africa.

Artikel 3**Algemene Woordomskrywings****1. In hierdie Konvensie, tensy die samehang anders vereis:**

- (a) beteken die uitdrukking "Denemarke" die Koninkryk van Denemarke, insluitende enige deel buite die territoriale waters van Denemarke wat ooreenkomstig die volkereg aangewys is of hierna aangewys kan word onder Deense wette as 'n gebied waarbinne Denemarke soewereine regte kan uitoefen ten opsigte van die eksplorاسie en ontginning van die natuurlike bronne van die seabodem of sy ondergrond en die boliggende waters en met betrekking tot ander aktiwiteite vir die eksplorاسie en ekonomiese ontginning van die gebied; die uitdrukking sluit nie die Färöer-eilande en Groenland in nie; en
- (b) beteken die uitdrukking "Suid-Afrika" die Republiek van Suid-Afrika en, wanneer in geografiese verband gebruik, ook die territoriale waters daarvan asook enige deel buite die territoriale waters, insluitende die kontinentale plat, wat ingevolge die reg van Suid-Afrika en ooreenkomstig die volkereg aangewys is of hierna aangewys kan word as 'n deel waarbinne Suid-Afrika soewereine regte of jurisdiksie kan uitoefen;
- (c) beteken die uitdrukking " 'n Kontrakterende Staat" en "die ander Kontrakterende Staat" Denemarke of Suid-Afrika, na gelang die samehang vereis;
- (d) beteken die uitdrukking "maatskappy" enige regspersoon of enige entiteit wat vir belastingdoeleindes as 'n maatskappy of regspersoon behandel word;
- (e) beteken die uitdrukking "bevoegde owerheid":
 - (i) in Denemarke, die Minister van Belasting of sy gemagtigde verteenwoordiger; en
 - (ii) in Suid-Afrika, die Kommissaris van Binnelandse Inkomste of sy gemagtigde verteenwoordiger;
- (f) beteken die uitdrukking "onderneming van 'n Kontrakterende Staat" en "onderneming van die ander Kontrakterende Staat" onderskeidelik 'n onderneming bedryf deur 'n inwoner van 'n Kontrakterende Staat en 'n onderneming bedryf deur 'n inwoner van die ander Kontrakterende Staat;
- (g) beteken die uitdrukking "internasionale verkeer" enige vervoer per skip of vliegtuig bedryf deur 'n onderneming van 'n Kontrakterende Staat, behalwe wanneer die skip of vliegtuig slegs tussen plekke in die ander Kontrakterende Staat bedryf word;
- (h) beteken die uitdrukking "burger":
 - (i) enige individu wat burgerskap van 'n Kontrakterende Staat besit;
 - (ii) enige regspersoon, vennootskap of vereniging wat hul status as sodanig verkry van die wette wat in 'n Kontrakterende Staat van krag is; en
- (i) beteken die uitdrukking "persoon" ook 'n individu, 'n maatskappy en enige ander liggaam van persone.

2. By die toepassing van die bepalings van hierdie Konvensie deur 'n Kontrakterende Staat te eniger tyd, het 'n uitdrukking wat nie andersins hierin omskryf is nie, tensy die samehang anders vereis, die betekenis wat op daardie tydstip daaraan geheg word volgens daardie Staat se reg betreffende die belasting waarvoor hierdie Konvensie handel.

Artikel 4**Inwoner****1. By die toepassing van hierdie Konvensie beteken die uitdrukking "inwoner van 'n Kontrakterende Staat":**

- (a) in die geval van Denemarke, enige persoon wat kragtens die wette van Denemarke daarin belastingplichtig is uit hoofde van sy domisilie, plek van bestuur of enige ander soortgelyke maatstaf. Hierdie uitdrukking sluit nie 'n persoon in wat in Denemarke belastingplichtig is slegs ten opsigte van inkomste verkry uit bronne in Denemarke of kapitaal daarin geleë nie; en
- (b) in die geval van Suid-Afrika, enige individu wat gewoonlik in Suid-Afrika woonagtig is en enige ander persoon wat sy plek van effektiewe bestuur in Suid-Afrika het.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

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

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

Article 5

Permanent Establishment

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

2. The term "permanent establishment" includes especially:

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

3. A building site, a construction, installation or assembly project or any supervisory activity in connection with such site or 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 for 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; and
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

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

- (a) hy word geag 'n inwoner te wees van die Staat waarin hy 'n permanente tuiste tot sy beskikking het; indien hy in beide State 'n permanente tuiste tot sy beskikking het, word hy geag 'n inwoner te wees van die Staat waarmee sy persoonlike en ekonomiese betrekkinge die nouste is (tuiste van lewensbelange);
- (b) indien daar nie bepaal kan word in watter Staat hy sy tuiste van lewensbelange het nie, of indien hy nie 'n permanente tuiste in enigiene van die State tot sy beskikking het nie, word hy geag 'n inwoner te wees van die Staat waarin hy 'n gebruikelike verblyfplek het;
- (c) indien hy 'n gebruikelike verblyfplek in beide State het, of in geeneen van hulle nie, word hy geag 'n inwoner te wees van die Staat waarvan hy 'n burger is;
- (d) indien hy 'n burger van beide State is, of van geeneen van hulle nie, 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.

Artikel 5

Permanente Saak

1. By die toepassing van hierdie Konvensie beteken die uitdrukking "permanente saak" 'n vaste besigheidsplek waardeur die besigheid van 'n onderneming geheel en al of gedeeltelik gedryf word.

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

- (a) 'n plek van bestuur;
- (b) 'n tak;
- (c) 'n kantoor;
- (d) 'n fabriek;
- (e) 'n werkwinkel; en
- (f) 'n myn, 'n olie- of gasbron, 'n steengroef of enige ander plek van ontginning van natuurlike hulpbronne.

3. 'n Bouterrein, 'n konstruksie-, installasie- of monteerprojek, of enige toesighoudende bedrywigheid in verband met so 'n terrein of projek, maak 'n permanente saak uit slegs indien dit langer as twaalf maande bestaan.

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

- (a) die gebruik van fasiliteite slegs met die doel om goedere of handelsware wat aan die onderneming behoort op te berg, te vertoon of af te lewer;
- (b) die instandhouding van 'n voorraad goedere of handelsware wat aan die onderneming behoort, slegs met die doel om dit op te berg, te vertoon of af te lewer;
- (c) die instandhouding van 'n voorraad goedere of handelsware wat aan die onderneming behoort, slegs vir die doel van verwerking deur 'n ander onderneming;
- (d) die instandhouding van 'n vaste besigheidsplek slegs met die doel om vir die onderneming goedere of handelsware aan te koop of inligting in te win;
- (e) die instandhouding van 'n vaste besigheidsplek slegs met die doel om enige ander bedrywigheid van 'n voorlopige of bykomstige aard vir die onderneming te beoefen; en
- (f) die instandhouding van 'n vaste besigheidsplek slegs vir 'n kombinasie van die bedrywighede in subparagrafe (a) tot (e) genoem, met dien verstande dat die algehele bedrywigheid van die vaste besigheidsplek voortspruitend uit hierdie kombinasie 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. Where the ownership of shares or other corporate rights in a company entitles the owner of such shares or corporate rights to the enjoyment of immovable property held by the company, the income from the direct use, letting or use in any other form of such right to enjoyment may be taxed in the Contracting State in which the immovable property is situated.

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

Article 7

Business Profits

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

5. Ondanks die bepalings van paragrawe 1 en 2, waar 'n persoon — uitgesonderd 'n agent met 'n onafhanklike status op wie paragraaf 6 van toepassing is — namens 'n onderneming optree en magtiging het, en dit gewoonlik uitoefen, om in 'n Kontrakterende Staat kontrakte in die naam van die onderneming 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 (hetsy deur 'n permanente saak of andersins), beteken nie op sigself dat enigeen van die maatskappye 'n permanente saak van die ander is nie.

Artikel 6

Inkomste uit Onroerende Eiendom

1. Inkomste verkry deur 'n inwoner van 'n Kontrakterende Staat uit onroerende eiendom, insluitende 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 geheg word 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 mineraalafsettings, 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. Waar die eiendomsreg op aandele of ander regspersoonsregte in 'n maatskappy die eienaar van sodanige aandele of regspersoonsregte daarop geregtig maak om onroerende eiendom te geniet wat deur die maatskappy gehou word, kan die inkomste uit die regstreekse gebruik, verhuring of gebruik in enige ander vorm van sodanige reg op genot, in die Kontrakterende Staat waarin die onroerende eiendom geleë is, belas word.

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

Artikel 7

Besigheidswinste

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

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere.

4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

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

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

7. Where profits include items of income which are dealt with separately in other Articles of this 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 of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

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

- (a) profits derived from the rental on a bare boat basis of ships or aircraft used in international traffic,
- (b) profits derived from the use or rental of containers,

if such profits are incidental to the profits to which the provisions of paragraph 1 apply.

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

4. With respect to profits derived by the Danish, Norwegian and Swedish air transport consortium, known as the Scandinavian Airlines System (SAS), the provisions of paragraphs 1 and 3 shall apply only to such proportion of the profits as corresponds to the participation held in that consortium by Det Danske Luftfartsselskab (DDL), the Danish partner of Scandinavian Airlines Systems (SAS).

2. Behoudens die bepalinge 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 daar as aftrekkings toegelaat uitgawes wat vir doeleindes van die permanente saak aangegaan word, insluitende bestuurs- en algemene administratiewe koste 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 dele, belet niks in paragraaf 2 daardie Kontrakterende Staat om die winste wat belas moet word vas te stel deur sodanige toedeling as wat gebruiklik is nie. Die metode van toedeling wat aanvaar word, moet egter sodanig wees dat die resultaat in ooreenstemming is met die beginsels in hierdie Artikel vervat.

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

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

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

Artikel 8

Skeepvaart en Lugvervoer

1. Winste van 'n onderneming van 'n Kontrakterende Staat uit die bedryf van skepe of vliegtuie in internasionale verkeer is slegs in daardie Staat belasbaar.

2. By die toepassing van hierdie Artikel, sluit winste verkry uit die bedryf van skepe of vliegtuie in internasionale verkeer in:

- (a) winste verkry uit die verhuring op 'n "sonder-bemannings"-basis van skepe of vliegtuie wat in internasionale verkeer gebruik word,
- (b) winste verkry uit die gebruik of verhuring van houters,

indien sodanige winste bykomstig is by die winste waarop die bepalinge van paragraaf 1 van toepassing is.

3. Die bepalinge van paragraaf 1 is ook van toepassing op winste verkry uit die deelname aan 'n winsdeling, 'n gesamentlike besigheid of 'n internasionale bedryfsagentskap.

4. Met betrekking tot winste verkry deur die Deense, Noorse, en Sweedse lugvervoerkonsortium, bekend as die Scandinavian Airlines System (SAS), is die bepalinge van paragraaf 1 en 3 van toepassing slegs op daardie gedeelte van die winste wat ooreenstem met die deelname wat in daardie konsortium gehou word deur Det Danske Luftfartsselskab (DDL), die Deense vennoot van Scandinavian Airlines System (SAS).

Article 9**Associated Enterprises****1. Where:**

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

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

2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits if 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 beneficial owner of the dividends is a resident of the other Contracting State 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 at least 25 per cent of the capital of the company paying the dividends; or
- (b) 15 per cent of the gross amount of the dividends in all other cases.

The competent authorities of the Contracting States shall settle the mode of application of these limitations by mutual agreement.

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

3. The term "dividends" as used in this Article means income from shares or other rights participating in profits (not being debt claims), as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the Contracting State of which the company making the distribution is a resident.

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 betrekkinge 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 dienooreenkomstig belas word.

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

Artikel 10**Dividende**

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

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

- (a) 5 persent van die bruto bedrag van die dividende indien die bevoordeelde eienaar 'n maatskappy is wat minstens 25 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 bevoegde owerhede van die Kontrakterende State besleg die wyse van toepassing van hierdie beperkings deur onderlinge ooreenkoms:

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

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

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

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

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, provided such resident is the beneficial owner of the interest.

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 purposes of this Article.

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

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

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

5. Waar 'n maatskappy wat 'n inwoner van 'n Kontrakterende Staat is winste of inkomste uit die ander Kontrakterende Staat verkry, 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 aandeelbesit 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 geheel en al of gedeeltelik uit winste of inkomste wat in sodanige ander Staat ontstaan.

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 mits sodanige inwoner die bevoordeelde eienaar van die rente 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 inhou om in die skuldenaar se winste te deel al dan nie, en in die besonder inkomste uit staatseffekte en inkomste uit obligasies of skuldbriewe, insluitende premies en pryse verbonde aan sodanige effekte, obligasies of skuldbriewe. Boeteheffings vir laat betaling word by die toepassing van hierdie Artikel nie as rente beskou nie.

3. Die bepalings van paragraaf 1 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 'n permanente saak daarin geleë, of in daardie ander Staat onafhanklike persoonlike dienste verrig 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.

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

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

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

Article 13

Capital Gains

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

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

3. Gains of an enterprise of a Contracting State 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 that State.

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.

5. With respect to gains derived by the Danish, Norwegian and Swedish air transport consortium Scandinavian Airlines System (SAS), the provisions of paragraph 3 shall apply only to such proportion of the gains as corresponds to the participation held in that consortium by Det Danske Luftfartsselskab (DDL), the Danish partner of Scandinavian Airlines System (SAS).

6. Where an individual who was a resident of a Contracting State for a period of five years or more was, on becoming a resident of the other Contracting State, subjected to tax by the first-mentioned State on the appreciation in the value of the shares held by him, such individual may for the purposes of determining the gain derived by him on the subsequent disposal of such shares elect that the shares shall be deemed to have been acquired by him at a price equal to the value of the shares which was taken into account by the first-mentioned State in the determination of the said appreciation.

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 van letterkundige, kuns- of wetenskaplike werk (insluitende kinematograaffilms en films, bande of skywe 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, inligting aangaande industriële, handels- of wetenskaplike ondervinding.

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

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

Artikel 13

Kapitaalwinste

1. Winste verkry deur 'n inwoner van 'n Kontrakterende Staat uit die vervreemding van onroerende eiendom in Artikel 6 bedoel wat in die ander Kontrakterende Staat geleë is, kan in daardie ander Staat belas word.

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 verrig, insluitende 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 Staat belas word.

3. Winste verkry deur 'n onderneming van 'n Kontrakterende Staat 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 daardie Staat belasbaar.

4. Winste uit die vervreemding van enige eiendom, uitgesonderd dié bedoel in paragrawe 1, 2 en 3, is slegs in die Kontrakterende Staat waarvan die vervreemder 'n inwoner is, belasbaar.

5. Met betrekking tot winste verkry deur die Deense, Noorse en Sweedse lugvervoerkonsortium Scandinavian Airlines System (SAS), is die bepalinge van hierdie paragraaf van toepassing slegs op daardie gedeelte van die winste wat ooreenstem met die deelname gehou in daardie konsortium deur Det Danske Luftfartsselskab (DDL), die Deense vennoot van Scandinavian Airlines System (SAS).

6. Waar 'n individu wat vir 'n tydperk van vyf jaar of meer 'n inwoner van 'n Kontrakterende Staat was, deur daardie Staat op die appresiasie in die waarde van aandele deur hom gehou aan belasting onderwerp is toe hy 'n inwoner van die ander Kontrakterende Staat geword het, kan sodanige individu vir doeleindes van die bepaling van die wins deur hom verkry op die latere vervreemding van sodanige aandele kies dat die aandele geag word deur hom verkry te gewees het teen 'n prys gelyk aan die waarde van die aandele wat in aanmerking geneem is deur eersgenoemde Staat by die bepaling van gemelde appresiasie.

Article 14**Independent Personal Services**

1. Income derived by an individual who is 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 or had a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has or had such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base. For the purposes of this provision, where an individual who is a resident of a Contracting State stays in the other Contracting State for a period or periods exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned, he shall be deemed to have a fixed base regularly available to him in that other State and the income that is derived from his activities that are performed in that other State shall be 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 State.

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

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned; and
- (b) the remuneration is paid by or on behalf of an employer who is a resident of the first-mentioned State; and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

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

4. Where a resident of Denmark derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the consortium Scandinavian Airlines System (SAS), such remuneration shall be taxable only in Denmark.

Article 16**Directors' Fees**

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

Artikel 14***Onafhanklike Persoonlike Dienste***

1. Inkomste verkry deur 'n individu wat 'n inwoner van 'n Kontrakterende Staat is ten opsigte van professionele dienste of ander bedrywighede 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 of gehad het vir die doel van die verrigting van sy bedrywighede. Indien hy sodanige vaste basis het of gehad het, kan die inkomste in die ander Staat belas word, maar slegs soveel daarvan as wat aan daardie vaste basis toeskryfbaar is. By die toepassing van hierdie bepaling, waar 'n individu wat 'n inwoner van 'n Kontrakterende Staat is, in die ander Kontrakterende Staat bly vir 'n tydperk of tydperke wat altesaam 183 dae in enige twaalfmaandetydperk wat in die betrokke fiskale jaar begin of eindig, te bowe gaan, word hy geag 'n vaste basis in daardie ander Staat gereeld tot sy beskikking te hê en die inkomste wat verkry word uit sy bedrywighede wat in daardie ander Staat verrig word, is aan daardie vaste basis toeskryfbaar.

2. Die uitdrukking "professionele dienste" sluit veral in onafhanklike wetenskaplike, letterkundige, kuns-, opvoedkundige of onderwysaktiwiteite, sowel as die onafhanklike aktiwiteite van geneeskundiges, regsgeleerdes, 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 sodanige besoldiging as 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 diensbetrekking wat in die ander Kontrakterende Staat beoefen word, slegs in eersgenoemde Staat belasbaar indien:

- (a) die ontvanger teenwoordig is in die ander Staat vir 'n tydperk of tydperke wat altesaam nie 183 dae in enige twaalfmaandetydperk wat in die betrokke fiskale jaar begin of eindig, te bowe gaan nie; en
- (b) die besoldiging betaal word deur of namens 'n werkgewer wat 'n inwoner van eersgenoemde Staat is; en
- (c) die besoldiging nie gedra word deur 'n permanente saak of 'n vaste basis wat die werkgewer in die ander Staat het nie.

3. Ondanks die voorgaande bepalings van hierdie Artikel, kan besoldiging verkry ten opsigte van 'n diensbetrekking beoefen aan boord van 'n skip of vliegtuig wat in internasionale verkeer deur 'n onderneming van 'n Kontrakterende Staat bedryf word, in daardie Staat belas word.

4. Waar 'n inwoner van Denemarke besoldiging verkry ten opsigte van diens uitgeoefen aan boord van 'n vliegtuig bedryf in internasionale vervoer deur die konsortium Scandinavian Airlines System (SAS), is sodanige besoldiging slegs in Denemarke belasbaar.

Artikel 16***Direkteursgelde***

Direkteursgelde en soortgelyke betalings verkry 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.

Article 17**Entertainers and Sportsmen**

1. Notwithstanding the provisions of Articles 7, 14 and 15, income derived by a resident of a Contracting State as an entertainer such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.
3. Income derived by a resident of a Contracting State from activities exercised in a Contracting State as envisaged in paragraphs 1 and 2 of this Article, shall be exempt from tax in that State if the visit to that State is supported wholly or mainly by public funds of the other Contracting State, a political subdivision or a local authority thereof.

Article 18**Pensions and Annuities**

1. Subject to the provisions of paragraph 2 of Article 19, pensions, annuities and other similar remuneration paid to a resident of a Contracting State, shall be taxable only in that State.
2. Notwithstanding the provisions of paragraph 1, payments received by an individual, being a resident of a Contracting State, under the social security legislation of the other Contracting State shall be taxable only in that other State.
3. In the case of an individual who was a resident of a Contracting State and has become a resident of the other Contracting State, the provisions of paragraph 1 shall not affect the right of the first-mentioned State under its national laws to tax pensions, annuities and other similar remuneration accruing to such individual from sources within that State.
4. The term "annuities" means stated sums payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

Article 19**Government Service**

1. (a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.

Artikel 17**Verhoogkunstenaars en Sportlui**

1. Ondanks die bepalings van Artikels 7, 14 en 15, kan inkomste verkry deur 'n inwoner van 'n Kontrakterende Staat as 'n verhoogkunstenaar, soos 'n teater-, rolprent-, radio- of televisie-arties of 'n musikant, of as 'n sportman, 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 'n sportman in dié hoedanigheid beoefen word nie aan die verhoogkunstenaar of sportman self toeval nie, maar aan 'n ander persoon, kan daardie inkomste, ondanks die bepalings van Artikels 7, 14 en 15, belas word in die Kontrakterende Staat waarin die bedrywighede van die verhoogkunstenaar of sportman beoefen word.

3. Inkomste verkry deur 'n inwoner van 'n Kontrakterende Staat uit bedrywighede beoefen in 'n Kontrakterende Staat soos beoog in paragrafe 1 en 2 van hierdie Artikel, is vrygestel van belasting in daardie Staat indien die besoek aan daardie Staat geheel en al of hoofsaaklik deur staatsgelde van die ander Kontrakterende Staat, 'n staatkundige onderverdeling of 'n plaaslike owerheid daarvan ondersteun word.

Artikel 18**Pensioene en Annuïteite**

1. Behoudens die bepalings van paragraaf 2 van Artikel 19 is pensioene, annuïteite en ander soortgelyke besoldiging wat aan 'n inwoner van 'n Kontrakterende Staat betaal word, slegs in daardie Staat belasbaar.

2. Ondanks die bepalings van paragraaf 1, is betalings ontvang deur 'n individu, synde 'n inwoner van 'n Kontrakterende Staat, kragtens die bestaansbeveiligingswetgewing van die ander Kontrakterende Staat slegs in daardie ander Staat belasbaar.

3. In die geval van 'n individu wat 'n inwoner van 'n Kontrakterende Staat was en 'n inwoner geword het van die ander Kontrakterende Staat, raak die bepalings van paragraaf 1 nie die reg van eersgenoemde Staat volgens sy landsreg om pensioene, annuïteite en ander soortgelyke besoldiging, toegeval aan sodanige individu uit bronne binne daardie Staat, te belas nie.

4. Die uitdrukking "annuïteite" beteken 'n vermelde bedrag wat periodiek op vermelde tye gedurende lewe of gedurende 'n gespesifiseerde of vasstelbare tydperk betaalbaar is ingevolge 'n verpligting om die betalings te doen in ruil vir voldoende en volle vergoeding in geld of geldwaarde.

Artikel 19**Regeringsdiens**

1. (a) Salarisse, lone en ander soortgelyke besoldiging, uitgesonderd 'n pensioen, betaal deur 'n Kontrakterende Staat of 'n staatkundige onderverdeling of 'n plaaslike owerheid daarvan aan 'n individu ten opsigte van dienste gelewer aan daardie Staat of onderverdeling of owerheid, is slegs in daardie Staat belasbaar.

(b) Sodanige salarisse, lone en ander soortgelyke besoldiging is egter slegs in die ander Kontrakterende Staat belasbaar indien die dienste in daardie Staat gelewer word en die individu 'n inwoner van daardie Staat is wat:

- (i) 'n burger van daardie Staat is; of
- (ii) nie 'n inwoner van daardie Staat geword het met die uitsluitlike doel om die dienste te lewer nie.

2. (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority 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.

3. The provisions of Articles 15, 16 and 18 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20

Students, Apprentices and Business Trainees

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

Article 21

Activities in Connection with Preliminary Surveys, Exploration or Extraction of Hydrocarbons or other Minerals

1. Notwithstanding the provisions of Articles 5 and 14, a resident of a Contracting State who carries on offshore drilling rig activities or activities in connection with preliminary surveys, exploration or extraction of hydrocarbons or other minerals situated in the other Contracting State shall be deemed to be carrying on in respect of such activities a business in that other Contracting State through a permanent establishment or fixed base situated therein.

2. The provisions of paragraph 1 shall not apply where the activities are carried on for a period or periods not exceeding 30 days in aggregate in any twelve-month period. However, for the purpose of this paragraph, where an enterprise of a Contracting State carrying on activities of this nature in the other Contracting State is associated with another enterprise, within the meaning of Article 9, carrying on substantially similar activities there, the first-mentioned enterprise shall be deemed to be carrying on all such activities of the last-mentioned enterprise, except to the extent that those activities are carried on at the same time as its own activities.

3. Notwithstanding the provisions of paragraphs 1 and 2, profits derived by an enterprise of a Contracting State from the transport by ships or aircraft of supplies or personnel to a location where offshore activities in connection with preliminary surveys, exploration or extraction of hydrocarbons or other minerals are being carried on in the other Contracting State, or from the operation of tugboats and similar vessels in connection with such activities, shall be taxable only in the first-mentioned State.

4. Salaries, wages and other similar remuneration derived by an individual who is a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft, tugboat or vessel covered by paragraph 3 shall be taxed in accordance with the provisions of paragraph 3 of Article 15.

5. Notwithstanding the provisions of Article 13, capital gains on drilling rigs used for activities, as mentioned in paragraph 1, which are deemed to be derived by a resident of a Contracting State when the rig activities cease to be subject to tax in the other Contracting State shall be exempt from tax in that other State. For the purpose of this paragraph, the term "capital gains" means the amount by which the market value at the moment of transfer exceeds the residual value at that moment, as increased by any depreciation taken.

2. (a) Enige pensioen betaal deur, of uit fondse geskep deur 'n Kontrakterende Staat of 'n staatkundige onderverdeling of 'n plaaslike owerheid daarvan aan 'n individu ten opsigte van dienste gelewer aan daardie Staat of onderverdeling of owerheid 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.

3. Die bepalings van Artikels 15, 16 en 18 is van toepassing op salarisse, lone en ander soortgelyke besoldiging, en op pensioene, ten opsigte van dienste gelewer in verband met 'n besigheid wat deur 'n Kontrakterende Staat of 'n staatkundige onderverdeling of 'n plaaslike owerheid daarvan gedryf word.

Artikel 20

Studente, Vakleerlinge en Besigheidsvakleerlinge

'n Student, vakleerling of besigheidsvakleerling wat in 'n Kontrakterende Staat teenwoordig is uitsluitlik vir die doel van sy onderrig of opleiding en wat 'n inwoner is, of onmiddellik voor sodanige teenwoordigheid 'n inwoner was, van die ander Kontrakterende Staat, is in eersgenoemde Staat vrygestel van belasting op betalings ontvang van buite daardie eersgenoemde Staat vir die doel van sy onderhoud, onderrig of opleiding.

Artikel 21

Bedrywighede in Verband met Voorlopige Opnames, Eksplorاسie of Ontginning van Koolwaterstof of ander Minerale

1. Ondanks die bepalings van Artikels 5 en 14 word 'n inwoner van 'n Kontrakterende Staat wat afluandige boortoringbedrywighede of bedrywighede in verband met voorlopige opnames, eksplorاسie of ontginning van koolwaterstof of ander minerale geleë in die ander Kontrakterende Staat beoefen, geag ten opsigte van sodanige bedrywighede 'n besigheid in daardie ander Kontrakterende Staat te dryf deur middel van 'n permanente saak of vaste basis daarin geleë.

2. Die bepalings van paragraaf 1 is nie van toepassing nie waar die bedrywighede beoefen word vir 'n tydperk of tydperke wat nie altesaam 30 dae in enige twaalfmaandetydperk te bowe gaan nie. By die toepassing van hierdie paragraaf egter, waar 'n onderneming van 'n Kontrakterende Staat wat bedrywighede van hierdie aard in die ander Kontrakterende Staat beoefen, verbonde is met 'n ander onderneming, binne die bedoeling van Artikel 9, wat wesenlik soortgelyke bedrywighede daar beoefen, word eersgenoemde onderneming geag alle sodanige bedrywighede van laasgenoemde onderneming te beoefen, behalwe in die mate dat daardie bedrywighede gelyktydig met sy eie bedrywighede beoefen word.

3. Ondanks die bepalings van paragrafe 1 en 2, is winste verkry deur 'n onderneming van 'n Kontrakterende Staat uit die vervoer deur skepe of vliegtuie van voorraad of personeel na 'n plek waar afluandige bedrywighede in verband met voorlopige opnames, eksplorاسie of ontginning van koolwaterstof of ander minerale beoefen word in die ander Kontrakterende Staat, of uit die bedryf van sleepbote en soortgelyke vaartuie in verband met sodanige bedrywighede, slegs in eersgenoemde Staat belasbaar.

4. Salarisse, lone en ander soortgelyke besoldiging verkry deur 'n individu wat 'n inwoner van 'n Kontrakterende Staat is ten opsigte van 'n diensbetrekking wat aan boord van 'n skip of vliegtuig, sleepboot of vaartuig gedek deur paragraaf 3, beoefen word, word ooreenkomstig die bepalings van paragraaf 3 van Artikel 15 belas.

5. Ondanks die bepalings van Artikel 13, is kapitaalwinste op boortorings gebruik vir bedrywighede, soos in paragraaf 1 genoem, wat geag word verkry te wees deur 'n inwoner van 'n Kontrakterende Staat wanneer die toringbedrywighede nie meer in die ander Kontrakterende Staat aan belasting onderworpe is nie, vrygestel van belasting in daardie ander Staat. By die toepassing van hierdie paragraaf beteken die uitdrukking "kapitaalwinste" die bedrag waardeur die markwaarde op die oomblik van oordrag die reswaarde op daardie oomblik, soos vermeerder deur enige depresiasie geneem, te bowe gaan.

Article 22**Other Income**

1. Items 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.

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

Article 23**Elimination of Double Taxation**

Double taxation shall be eliminated as follows:

1. In Denmark:

- (a) subject to the provisions of subparagraph (c), where a resident of Denmark derives income which, in accordance with the provisions of this Convention, may be taxed in South Africa, Denmark shall allow as a deduction from the tax on the income of that resident, an amount equal to the South African tax paid;
- (b) such deduction shall not, however, exceed that part of the Danish tax, as computed before the deduction is given, which is attributable to the income which may be taxed in South Africa;
- (c) where a resident of Denmark derives income which, in accordance with the provisions of this Convention shall be taxable only in South Africa, Denmark may include such income in the tax base, but shall allow as a deduction from the Danish tax that part of the Danish tax which is attributable to the income derived from South Africa.

2. In South Africa, taxes paid by residents of South Africa in respect of income taxable in Denmark, in accordance with the provisions of this Convention, shall be deducted from the taxes due according to South African fiscal law. Such deduction shall not, however, exceed an amount which bears to the total South African tax payable the same ratio as the income concerned bears to the total income.

Article 24**Non-discrimination**

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

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

Artikel 22**Ander Inkomste**

1. Inkomste-items van 'n inwoner van 'n Kontrakterende Staat, waar dit ook al ontstaan, wat nie in die voorgaande Artikels van hierdie Konvensie behandel is nie, is slegs in daardie Staat belasbaar.

2. Die bepalings van paragraaf 1 is nie van toepassing nie op inkomste, behalwe 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 'n permanente saak daarin geleë, of in daardie ander Staat onafhanklike persoonlike dienste verrig vanaf 'n vaste basis daarin geleë, en 'n reg of eiendom ten opsigte waarvan die inkomste 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.

Artikel 23**Uitskakeling van Dubbele Belasting**

Dubbele belasting word soos volg uitgeskakel:

1. In Denemarke:

- (a) behoudens die bepalings van subparagraaf (c), waar 'n inwoner van Denemarke inkomste verkry wat, ooreenkomstig die bepalings van hierdie Konvensie, in Suid-Afrika belas kan word, moet Denemarke as 'n aftrekking van belasting op die inkomste van daardie inwoner, 'n bedrag gelyk aan die Suid-Afrikaanse belasting betaal, toelaat;
- (b) sodanige aftrekking gaan egter nie daardie deel van die Deense belasting te bowe nie, soos bereken voor die aftrekking gegee word wat toeskryfbaar is aan die inkomste wat in Suid-Afrika belas kan word;
- (c) waar 'n inwoner van Denemarke inkomste verkry wat ooreenkomstig die bepalings van hierdie Konvensie slegs in Suid-Afrika belasbaar is, kan Denemarke sodanige inkomste in die belastingbasis insluit, maar laat daardie gedeelte van die Deense belasting wat toeskryfbaar is aan die inkomste verkry uit Suid-Afrika, as 'n aftrekking van die Deense belasting toe.

2. In Suid-Afrika word belasting betaal deur inwoners van Suid-Afrika ten opsigte van inkomste wat in Denemarke belasbaar is, ooreenkomstig die bepalings van hierdie Konvensie, afgetrek van die belasting wat ingevolge Suid-Afrikaanse fiskale reg betaalbaar is. Sodanige aftrekking kan egter nie meer wees nie as 'n bedrag wat in dieselfde verhouding tot die totale Suid-Afrikaanse belasting betaalbaar staan as die verhouding waarin die betrokke inkomste tot die totale inkomste staan.

Artikel 24**Nie-diskriminasie**

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

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

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

4. Except where the provisions of paragraph 1 of Article 9, paragraph 4 of Article 11 or paragraph 4 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

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 Convention.

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 this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this 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 an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the 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 application of this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this Convention.

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

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

4. Behalwe waar die bepalinge van paragraaf 1 van Artikel 9, paragraaf 4 van Artikel 11 of paragraaf 4 van Artikel 12 van toepassing is, is rente, tantièmes en ander uitbetalings deur 'n onderneming van 'n Kontrakterende Staat aan 'n inwoner van die ander Kontrakterende Staat, by die vasstelling van die belasbare winste van sodanige onderneming, onder dieselfde omstandighede aftrekbaar asof dit aan 'n inwoner van eersgenoemde Staat betaal was.

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

6. In hierdie Artikel beteken die uitdrukking "belasting" die belastinge waarvoor hierdie Konvensie handel.

Artikel 25

Prosedure vir Onderlinge Ooreenkoms

1. Waar 'n persoon van mening is dat die optrede van een van of van albei die Kontrakterende State tot gevolg het of tot gevolg sal hê dat hy nie ooreenkomstig hierdie Konvensie belas word nie, kan hy, ongeag die regsmiddels waarvoor die landsreg van daardie State voorsiening maak, sy saak stel aan die bevoegde owerheid van die Kontrakterende Staat waarvan hy 'n inwoner is of, as sy saak onder paragraaf 1 van Artikel 24 ressorteer, aan dié van die Kontrakterende Staat waarvan hy 'n burger is. Die saak moet gestel word binne drie jaar vanaf die eerste kennisgewing van die handeling wat lei tot belasting wat nie in ooreenstemming met die bepalinge van hierdie Konvensie is nie.

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

3. Die bevoegde owerhede van die Kontrakterende State moet probeer om enige probleme 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 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 voorgaande paragrawe beoog. Wanneer 'n mondelinge wisseling van menings raadsaam geag word ten einde tot 'n ooreenkoms te geraak, kan sodanige meningswisseling plaasvind deur middel van 'n kommissie bestaande uit verteenwoordigers van die bevoegde owerhede van die Kontrakterende State.

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 this Convention in so far as the taxation thereunder is not contrary to this 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 law of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by this 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 or the administrative practice of that or of the other Contracting State;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 27**Assistance in Recovery**

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

2. Claims which are the subject of requests for assistance shall not have priority over taxes owing in the Contracting State rendering assistance and the provisions of paragraph 1 of Article 26 shall also apply to any information which, by virtue of this Article, is supplied to the competent authority of a Contracting State.

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

Article 28**Members of Diplomatic Missions and Consular Posts**

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

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

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

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

Artikel 27***Bystand met Invordering***

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

2. Eise wat die onderwerp is van versoeke vir bystand geniet nie voorkeur bo die belastinge verskuldig in die Kontrakterende Staat wat bystand verleen nie en die bepalinge van paragraaf 1 van Artikel 26 is ook van toepassing op enige inligting wat, uit hoofde van hierdie Artikel, aan die bevoegde owerheid van 'n Kontrakterende Staat verskaf word.

3. Die bevoegde owerhede van die Kontrakterende State beslis die wyse van toepassing van die bepalinge van hierdie Artikel deur onderlinge ooreenkomste.

Artikel 28***Lede van Diplomatieke Sendings en Konsulêre Poste***

Niks in hierdie Konvensie raak die fiskale voorregte van lede van diplomatieke sendings of konsulêre poste ingevolge die algemene reëls van die volkereg of ingevolge die bepalinge van spesiale ooreenkomste nie.

Article 29***Limitation of Benefits***

1. If after the date of signature hereof a Contracting State introduces legislation (other than legislation introduced in South Africa in accordance with the general rule applicable in South Africa as at that date regarding the taxation of income derived from a source within South Africa) in terms of which offshore income derived by a company from:

- (a) shipping;
- (b) banking, financing, insurance, investment or similar activities; or
- (c) being the headquarters, co-ordination centre or similar entity providing administrative services or other support to a group of companies which carry on business primarily in other States,

is not taxed in that State or is taxed at a rate of tax which is significantly lower than the rate of tax which is applied to income from similar onshore activities, the other Contracting State shall not be obliged to apply any limitation imposed under this Convention on its right to tax the income derived by the company from such offshore activities or on its right to tax the dividends paid by the company.

2. If in terms of any provision of this Convention other than Article 10, the right of a Contracting State to tax any income is limited and, by reason of the fact that such income is under the laws of the other Contracting State regarded as being derived from a source outside that other State, such income is not subjected to tax in that other State, the first-mentioned State may tax such income as if such provision did not exist.

Article 30***Territorial Extension***

1. This Convention may be extended, either in its entirety or with any necessary modifications, to the territories under Denmark's sovereignty which are specifically excluded from the application of the Convention or to any territory for whose international relations Denmark is responsible, and which imposes 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 of termination, as may be specified and agreed between the Contracting States through the diplomatic channel after the completion of their internal 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 to which it has been extended under this Article.

Article 31***Entry into Force***

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

2. The provisions of this Convention shall apply:

- (a) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of January next following the date upon which this Convention enters into force; and

Artikel 29**Beperking van Voordele**

1. Indien 'n Kontrakterende Staat na die datum van ondertekening hiervan, wetgewing invoer (uitgesonderd wetgewing in Suid-Afrika ingevoer ooreenkomstig die algemene reël soos op daardie datum in Suid-Afrika van toepassing met betrekking tot die belasting van inkomste verkry uit 'n bron binne Suid-Afrika) ingevolge waarvan aflandige inkomste wat deur 'n maatskappy verkry word uit:

- (a) skeepvaart;
- (b) bankwese, finansiering, assuransië, investering of soortgelyke bedrywighede of
- (c) sy optrede as die hoofkwartier, koördineringsentrum of soortgelyke entiteit wat administratiewe dienste of ander bystand lewer aan 'n groep maatskappye wat besigheid hoofsaaklik in ander State dryf,

nie in daardie Staat belas word nie of teen 'n belastingkoers belas word wat wesenlik laer is as die belastingkoers wat van toepassing is op inkomste uit soortgelyke aanlandige bedrywighede, is die ander Kontrakterende Staat nie verplig tot die toepassing van enige beperking, opgelê ingevolge hierdie Konvensie, op sy reg om die inkomste te belas wat deur die maatskappy verkry word uit sodanige aflandige bedrywighede of op sy reg om die dividende wat deur die maatskappy betaal word, te belas nie.

2. Indien, ingevolge enige bepaling van hierdie Konvensie, behalwe Artikel 10, die reg van 'n Kontrakterende Staat om enige inkomste te belas beperk word en, uit hoofde van die feit dat sodanige inkomste onder die wette van die ander Kontrakterende Staat beskou word as uit 'n bron buite daardie ander Staat verkry, sodanige inkomste nie aan belasting in daardie ander Staat onderworpe is nie, kan eersgenoemde Staat sodanige inkomste belas asof sodanige bepaling nie bestaan het nie.

Artikel 30**Gebiedsuitbreiding**

1. Hierdie Konvensie kan òf in sy geheel òf met enige noodsaaklike wysigings uitgebrei word tot die gebiede onder Denemarke se soewereiniteit wat uitdruklik uitgesluit is by die toepassing van hierdie Konvensie of tot enige gebied vir wie se internasionale verhoudinge Denemarke verantwoordelik is, en wat wesenlik soortgelyke belastinghef as dié waarop die Konvensie van toepassing is. Enige sodanige uitbreiding tree in werking vanaf die datum en onderworpe aan sodanige wysigings en voorwaardes, insluitende voorwaardes betreffende opsegging, soos deur die Kontrakterende State gespesifiseer en ooreengekom kan word langs die diplomatieke kanale na afhandeling van hul interne grondwetlike prosedures.

2. Tensy albei die 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 waartoe dit ingevolge hierdie Artikel uitgebrei is.

Artikel 31**Inwerkingtreding**

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

2. Die bepalings van hierdie Konvensie is van toepassing:

- (a) met betrekking tot belastinghef wat by die bron teruggehou word, ten opsigte van bedrae betaal of gekrediteer op of na die eerste dag van Januarie eersvolgende op die datum waarop hierdie Konvensie in werking tree; en

(b) with regard to other taxes:

- (i) in Denmark, in respect of income years beginning on or after the first day of January next following the date upon which this Convention enters into force; and
- (ii) in South Africa, in respect of years of assessment beginning on or after the first day of January next following the date upon which this Convention enters into force.

3. The Agreement between the Government of Denmark and the Government of the Union of South Africa for the avoidance of double taxation on profits derived from the business of sea or air transport, which came into force on the 9th day of February 1951, shall terminate upon the entry into force of this Convention. However, the provisions of that Agreement shall continue in effect until the provisions of this Convention, in accordance with the provisions of paragraph 2 of this Article, shall have effect.

Article 32

Termination

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

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

- (a) with regard to taxes withheld at source, in respect of amounts paid or credited after the end of the calendar year in which such notice is given; and
- (b) with regard to other taxes:
 - (i) in Denmark, in respect of income years beginning after the end of the calendar year in which such notice is given; and
 - (ii) in South Africa, in respect of years of assessment 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 Convention.

DONE at Copenhagen in duplicate, this 21st day of June 1995, in the English language.

(Signed) T.M.Mbeki
FOR THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA

(Signed) N.H.Petersen
FOR THE GOVERNMENT OF THE
KINGDOM OF DENMARK

(b) met betrekking tot ander belastings:

- (i) in Denemarke, ten opsigte van inkomstejare beginnende op of na die eerste dag van Januarie eersvolgende op die datum waarop hierdie Konvensie in werking tree; en
- (ii) in Suid-Afrika, ten opsigte van jare van aanslag beginnende op of na die eerste dag van Januarie eersvolgende op die datum waarop hierdie Konvensie in werking tree.

3. Die Ooreenkoms tussen die Regering van Denemarke en die Regering van die Unie van Suid-Afrika vir die vermyding van dubbele belasting op winste verkry uit see- of lugvervoerbesigheid, wat van krag geword het op die 9de dag van Februarie 1951, word opgesê by die inwerkingtreding van hierdie Konvensie. Die bepalings van daardie Ooreenkoms bly egter van krag totdat die bepalings van hierdie Konvensie ooreenkomstig die bepalings van paragraaf 2 van hierdie Artikel van krag word.

Artikel 32

Opsegging

1. Hierdie Konvensie bly vir 'n onbepaalde tyd van krag maar enigeen van die Kontrakterende State kan die Konvensie langs die diplomatieke kanaal opsê deur aan die ander Kontrakterende Staat skriftelik kennis van opsegging te gee nie later nie as 30 Junie van enige kalenderjaar wat begin vyf jaar na die jaar waarin die Konvensie in werking getree het.

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

- (a) met betrekking tot belastings wat by die bron teruggehou word, ten opsigte van bedrae betaal of gekrediteer na die einde van die kalenderjaar waarin sodanige kennis gegee word; en
- (b) met betrekking tot ander belastings:
 - (i) in Denemarke, ten opsigte van inkomstejare beginnende na die einde van die kalenderjaar waarin sodanige kennis gegee word; en
 - (ii) in Suid-Afrika, ten opsigte van jare van aanslag beginnende na die einde van die kalenderjaar waarin sodanige kennis gegee word.

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

GEDOEN, in tweevoud, te Kopenhagen op hede die 21ste dag van Junie 1995, in die Engelse taal.

(Geteken) T.M.Mbeki
NAMENS DIE REGERING VAN DIE
REPUBLIEK VAN SUID-AFRIKA

(Geteken) N.H.Petersen
NAMENS DIE REGERING VAN DIE
KONINKRYK VAN DENEMARKE

PROTOCOL

To the Convention between the Government of the Republic of South Africa and the Government of the Kingdom of Denmark for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

At the signing of the Convention concluded today between the Government of the Republic of South Africa and the Government of the Kingdom of Denmark for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed that the following provisions shall form an integral part of the said Convention:

1. With regard to paragraph 3 of Article 5, it is understood that the supervisory activities envisaged therein are those which take place in the Contracting State in which the relevant site or project is situated.
2. With regard to paragraph 4 of Article 6, it is understood that the provision relates to Danish taxation law in terms of which the income envisaged therein is taxed as dividends in all cases.

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

DONE at Copenhagen in duplicate, this 21st day of June 1995, in the English language.

(Signed) T.M.Mbeki
FOR THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA

(Signed) N.H.Petersen
FOR THE GOVERNMENT OF THE
KINGDOM OF DENMARK

PROTOKOL

By die Konvensie tussen die Regering van die Republiek van Suid-Afrika en die Regering van die Koninkryk van Denemarke vir die vermyding van dubbele belasting en die voorkoming van fiskale ontduiking met betrekking tot belastings op inkomste.

By die ondertekening van die Konvensie vandag gesluit tussen die Regering van die Republiek van Suid-Afrika en die Regering van die Koninkryk van Denemarke vir die vermyding van dubbele belasting en die voorkoming van fiskale ontduiking met betrekking tot belastings op inkomste, het die ondergetekendes ooreengekom dat die volgende bepalings 'n integrerende deel van genoemde Konvensie uitmaak:

1. Met betrekking tot paragraaf 3 van Artikel 5, word daar verstaan dat die toesighoudende bedrywighede daarin beoog dié is wat plaasvind in die Kontrakterende Staat waarin die betrokke terrein of projek geleë is.
2. Met betrekking tot paragraaf 4 van Artikel 6, word daar verstaan dat die bepaling verband hou met die Deense belastingwet ingevolge waarvan die inkomste daarin beoog in alle gevalle as dividende belas word.

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

GEDOEN, in tweevoud, te Kopenhagen op hede die 21ste dag van Junie 1995, in die Engelse taal.

(Geteken) T.M.Mbeki
NAMENS DIE REGERING VAN DIE
REPUBLIC VAN SUID-AFRIKA

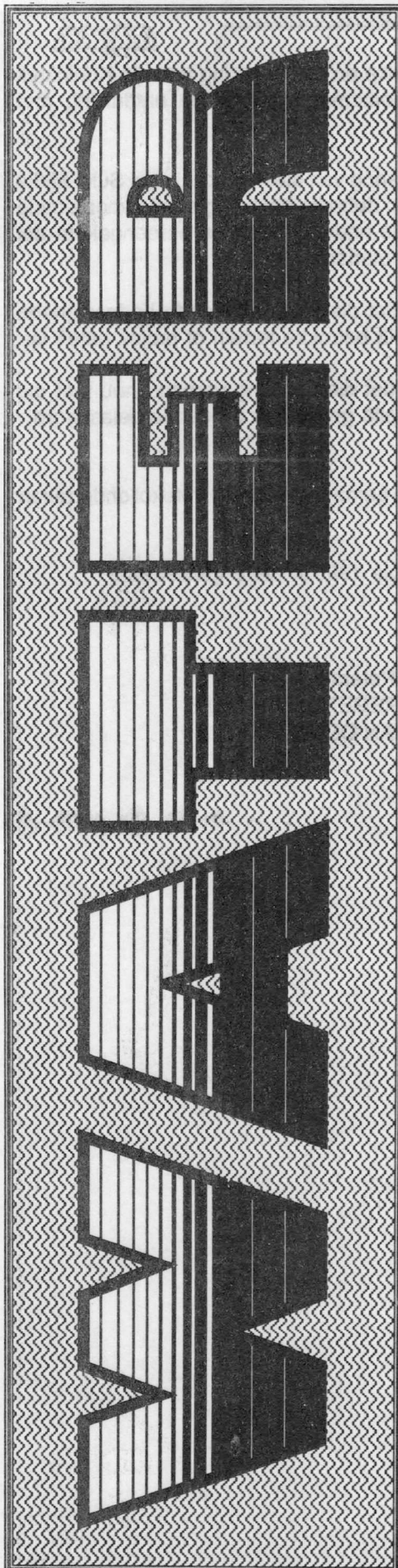
(Geteken) N.H.Petersen
NAMENS DIE REGERING VAN DIE
KONINKRYK VAN DENEMARKE



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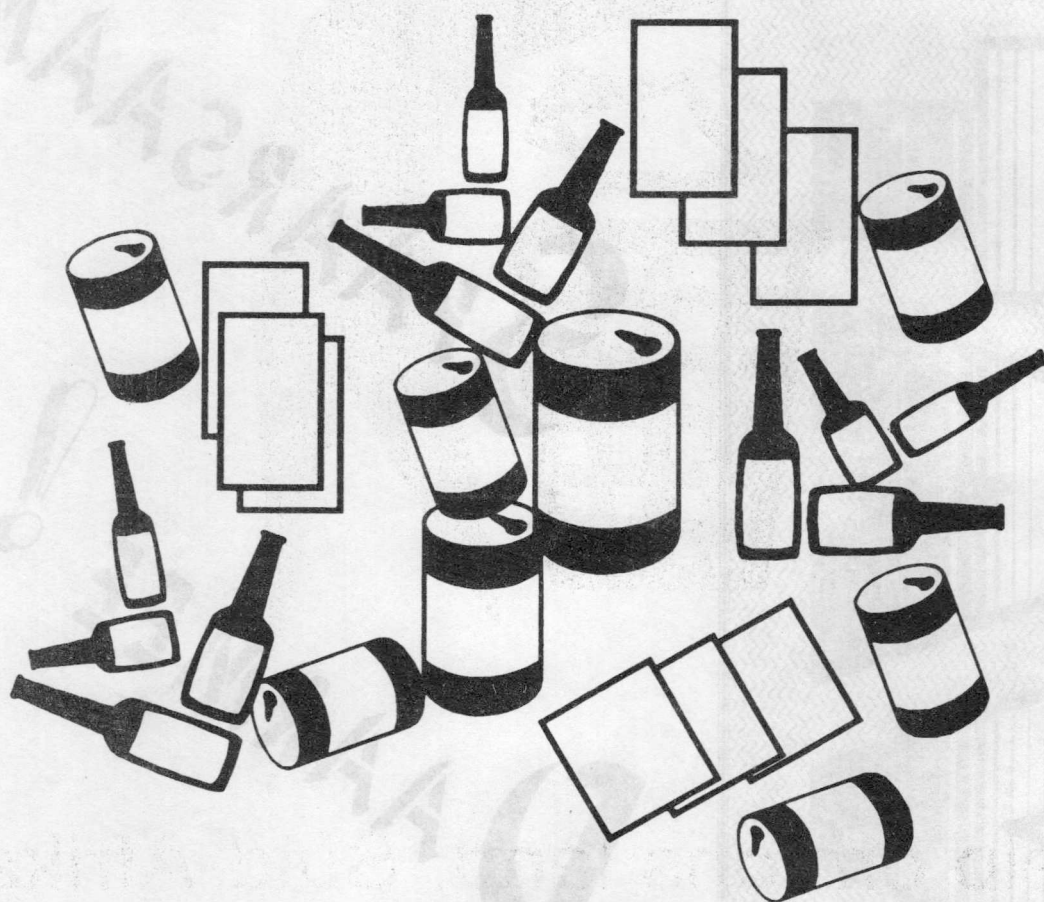
SPAARSAAM

DAARMEE!





RECYCLE HERGEBRUIK



Department of Environment Affairs
Departement van Omgewingsake



Please keep our country,
South Africa, clean!



Help om ons land, Suid-Afrika,
skoon te hou!

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