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GOVERNMENT NOTICE

GOEWERMENTSKENNISGEWING

SOUTH AFRICAN REVENUE SERVICE

No. 228

19 February 1999

INCOME TAX ACT, 1962

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

In terms of section 108 (2) of the Income Tax Act, 1962 (Act No. 58 of 1962), read in conjunction with section 231 (4) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), it is hereby notified that the Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains set out in the Schedule to this Notice has been entered into with the Government of the Republic of Namibia and has been approved by Parliament in terms of section 231 (2) of the Constitution.

It is further notified in terms of paragraph 1 of Article 29 of the Agreement, that the date of entry into force is 11 April 1999.

SUID-AFRIKAANSE INKOMSTEDIENS

No. 228

19 Februarie 1999

INKOMSTEBELASTINGWET, 1962

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

Ingevolge artikel 108 (2) van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), saamgelees met artikel 231 (4) van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996), word hiermee kennis gegee dat die Ooreenkoms vir die vermyding van dubbele belasting en die voorkoming van fiskale ontduiking met betrekking tot belasting op inkomste en kapitaalwinste wat in die Bylae tot hierdie Kennisgewing vervat is, aangegaan is met die Regering van die Republiek Namibië en deur die Parlement goedgekeur is ingevolge artikel 231 (2) van die Grondwet.

Daar word verder bekendgemaak dat ingevolge paragraaf 1 van Artikel 29 van die Ooreenkoms, die datum van inwerkingtreding 11 April 1999 is.

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

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

Have agreed as follows:

Article 1

Personal Scope

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

Article 2

Taxes Covered

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

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

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

(a) in the case of Namibia:

- (i) the income tax;
- (ii) the non-resident shareholders' tax;
- (iii) the petroleum income tax;

(hereinafter referred to as "Namibian tax");

(b) in the case of South Africa:

- (i) the normal tax;
- (ii) the secondary tax on companies;

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

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

Die Regering van die Republiek van Suid-Afrika en die Regering van die Republiek Namibië 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 Ooreenkoms is van toepassing op persone wat inwoners van een of van albei die Kontrakterende State is.

Artikel 2

Belastings Gedek

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

2. As belastinge op inkomste en op kapitaalwinste word geag alle belastinge opgelê op totale inkomste, op totale kapitaalwinste, of op bestanddele van inkomste of van kapitaalwinste, met inbegrip van belastinge op winste uit die vervreemding van roerende of onroerende eiendom, asook belastinge op kapitaalappresiasie.

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

(a) in die geval van Namibië:

- (i) die inkomstebelasting;
- (ii) die belasting op buitelandse aandeelhouders;
- (iii) die petroleuminkomstebelasting;

(hierna "Namibiese belasting" genoem);

(b) in die geval van Suid-Afrika:

- (i) die normale belasting;
- (ii) die sekondêre belasting op maatskappye;

(hierna "Suid-Afrikaanse belasting" genoem).

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

Article 3

General Definitions

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

- (a) the term "Namibia" means the Republic of Namibia, and, when used for the purposes of this Agreement in a geographical sense, the area in which the tax laws of Namibia are in force, as well as the territorial sea, the exclusive economic zone and the continental shelf, over which Namibia exercises sovereign rights in accordance with the international law, concerning the exploration and exploitation of the natural resources of the seabed and subsoil of these waters;
- (b) the term "South Africa" means the Republic of South Africa and, when used in a geographical sense, includes the territorial sea thereof as well as any area outside the territorial sea which has been or may hereafter be designated, under the laws of South Africa 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 Namibia 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 the case of Namibia, the Minister of Finance or his or her authorised representative; and
 - (ii) in the case of South Africa, the Commissioner for the South African Revenue Service or his authorised representative;
- (f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (g) the term "international traffic" means any transport by ship, aircraft or road transport vehicle operated by an enterprise which has its place of effective management in a Contracting State, except when the ship, aircraft or road transport vehicle 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 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 which is treated as an entity for tax purposes.

4. Die Ooreenkoms is ook van toepassing op enige identiese of wesenlik soortgelyke belastinge wat bykomend by, of in plaas van, die bestaande belastinge deur enigiemand van die Kontrakterende State opgelê word na die datum van ondertekening van die Ooreenkoms. Die bevoegde owerhede van die Kontrakterende State moet mekaar in kennis stel van enige wesenlike veranderinge wat aan hulle onderskeie belastingwette aangebring is.

Artikel 3

Algemene Woordskrywings

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

- (a) beteken die uitdrukking "Namibië" die Republiek Namibië, en, wanneer vir die doel van hierdie Ooreenkoms in geografiese verband gebruik, die deel waarin die belastingwette van Namibië van krag is, asook die territoriale waters, die eksklusiewe ekonomiese sone en die kontinentale plat, waaroor Namibië soewereine regte uitoefen in ooreenstemming met die volkereg, rakende die eksplorasië en ontginning van die natuurlike hulpbronne van die seebodem en ondergrond van hierdie waters;
- (b) beteken die uitdrukking "Suid-Afrika" die Republiek van Suid-Afrika en, wanneer in geografiese verband gebruik, ook die territoriale waters daarvan asook enige deel buite die territoriale waters wat ingevolge die reg van Suid-Afrika en in ooreenstemming met die volkereg aangewys is of hierna aangewys word as 'n deel waarbinne Suid-Afrika soewereine regte of jurisdiksie mag uitoefen;
- (c) beteken die uitdrukkings "'n Kontrakterende Staat" en "die ander Kontrakterende Staat" Namibië 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 die geval van Namibië, die Minister van Finansies of sy of haar gemagtigde verteenwoordiger; en
 - (ii) in die geval van Suid-Afrika, die Kommissaris vir die Suid-Afrikaanse Inkomstediens of sy gemagtigde verteenwoordiger;
- (f) beteken die uitdrukkings "onderneming van 'n Kontrakterende Staat" en "onderneming van die ander Kontrakterende Staat" onderskeidelik 'n onderneming bedryf deur 'n inwoner van 'n Kontrakterende Staat en 'n onderneming bedryf deur 'n inwoner van die ander Kontrakterende Staat;
- (g) beteken die uitdrukking "internasionale verkeer" enige vervoer per skip, vliegtuig of padvervoervoertuig bedryf deur 'n onderneming wie se plek van effektiewe bestuur in 'n Kontrakterende Staat geleë is, behalwe wanneer die skip, vliegtuig of padvervoervoertuig 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 of verenigings wat sy 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 wat vir belastingdoeleindes as 'n entiteit behandel word.

2. As regards the application of the provisions of the Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has at that time under the law of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4

Resident

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any individual who is ordinarily resident in that State and any legal person which has its place of management in that State.

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

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

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

Article 5

Permanent Establishment

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

2. The term "permanent establishment" includes especially:

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

2. By die toepassing te eniger tyd van die bepalings van die Ooreenkoms deur 'n Kontrakterende Staat, het 'n uitdrukking wat nie daarin omskryf is nie, tensy die samehang anders vereis, die betekenis wat op daardie tydstip daaraan geheg word ingevolge daardie Staat se wette vir doeleindes van die belastinge waarop die Ooreenkoms van toepassing is en geniet enige betekenis volgens die toepaslike belastingwette van daardie Staat voorrang bo die betekenis aan die uitdrukking gegee kragtens ander wette van daardie Staat.

Artikel 4

Inwoner

1. By die toepassing van hierdie Ooreenkoms beteken die uitdrukking "inwoner van 'n Kontrakterende Staat" enige individu wat gewoonlik in daardie Staat woonagtig is en enige regspersoon wat sy plek van bestuur in daardie Staat het.

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

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

Artikel 5

Permanente Saak

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

- (g) (i) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than six months;
- (ii) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the Contracting State for a period or periods aggregating more than six months within any twelve-month period;
- (h) a guest farm or other operation of a similar nature; and
- (i) a warehouse, where storage facilities are provided to parties other than the enterprise.

3. The term "permanent establishment" shall be deemed not to include:

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

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

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

5. 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. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he or she will not be considered an agent of an independent status within the meaning of this paragraph.

- (g) (i) 'n bouterrein, 'n konstruksie-, monteer- of installasieprojek of toesighoudende bedrywighede in verband daarmee, maar slegs waar sodanige terrein, projek of bedrywighede vir 'n tydperk van meer as ses maande voortduur;
- (ii) die verskaffing van dienste, met inbegrip van konsultasiedienste, deur 'n onderneming deur werknemers of ander personeel wat deur die onderneming vir sodanige doel in diens geneem is, maar slegs waar bedrywighede van daardie aard (vir dieselfde of 'n daaraan verbonde projek) binne die Kontrakterende Staat voortduur vir 'n tydperk of tydperke van altesaam meer as ses maande binne enige twaalfmaandetydperk;
- (h) 'n vakansieplaas of ander onderneming van 'n soortgelyke aard; en
- (i) 'n pakhuis, waar bergingsfasiliteite aan ander partye as die onderneming verskaf word.

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

- (a) die gebruik van fasiliteite slegs met die doel om goedere of handelware wat aan die onderneming behoort op te berg, te vertoon of af te lewer;
- (b) die instandhouding van 'n voorraad goedere of handelware 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 handelware 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 handelware aan te koop of inligting in te win;
- (e) die instandhouding van 'n vaste besigheidsplek slegs met die doel om te adverteer, inligting te verskaf, wetenskaplike navorsing te doen of vir soortgelyke bedrywighede wat van 'n voorlopige of bykomstige aard is vir die onderneming; en
- (f) die instandhouding van 'n vaste besigheidsplek, slegs vir 'n kombinasie van bedrywighede in subparagraawe (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.

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

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

5. '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 'n onafhanklike status, mits sodanige persone in die gewone loop van hul besigheid optree. Wanneer die bedrywighede van so 'n agent egter geheel en al of byna geheel en al namens daardie onderneming beoefen word, word hy of sy nie geag 'n agent met 'n onafhanklike status binne die betekenis van hierdie paragraaf te wees nie.

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

Article 6

Income from Immovable Property

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

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources. Ships, boats and aircraft shall not be regarded as immovable property.

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

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

Article 7

Business Profits

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

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

6. 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 middel van 'n permanente saak of andersins), beteken nie op sigself dat enigeen van die maatskappe 'n permanente saak van die ander is nie.

Artikel 6

Inkomste uit Onroerende Eiendom

1. Inkomste verkry deur 'n inwoner van 'n Kontrakterende Staat uit onroerende eiendom, met inbegrip van inkomste uit landbou of bosbou, wat in die ander Kontrakterende Staat geleë is, kan slegs 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 bepalinge van die algemene reg betreffende vaste eiendom van toepassing is, vruggebruik van onroerende eiendom en regte op wisselende of vaste betalings as vergoeding vir die ontginning, of die reg op ontginning, van mineraalafsettings, bronne en ander natuurlike hulpbronne. Skepe, bote en vliegtuie word nie geag onroerende eiendom te wees nie.

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

4. Die bepalinge 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 middel van 'n permanente saak wat daarin geleë is. Indien die onderneming besigheid dryf soos gemeld, kan die winste van die onderneming in die ander Staat belas word, maar slegs soveel daarvan as wat aan daardie permanente saak toeskryfbaar is.

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. 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. However, no such deductions shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

4. 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 reason to the contrary.

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

Article 8

Shipping, Air and Road Transport

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

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

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

3. By die vasstelling van die winste van 'n permanente saak word as aftrekkings toegelaat uitgawes wat vir die doeleindes van die permanente saak aangegaan is, met inbegrip van bestuurs- en algemene administrasiekoste aldus aangegaan, hetsy in die Kontrakterende Staat waarin die permanente saak geleë is, of elders. Geen sodanige aftrekkings word egter toegelaat nie ten opsigte van bedrae, indien enige, betaal word (anders as by wyse van vergoeding van werklike uitgawes), deur die permanente saak aan die hoofkantoor van die onderneming of enige van sy ander kantore by wyse van tantièmes, gelde of ander soortgelyke betalings in ruil vir die gebruik van patente of ander regte, of by wyse van kommissie, vir spesifieke dienste gelewer of vir bestuur, of, behalwe in die geval van 'n bankonderneming, by wyse van rente op gelde wat aan die permanente saak geleen is. Eweneens word bedrae deur die permanente saak aan die hoofkantoor van die onderneming of enige van sy ander kantore gehef (anders as by wyse van vergoeding van werklike uitgawes), by wyse van tantièmes, gelde of ander soortgelyke betalings in ruil vir die gebruik van patente of ander regte, of by wyse van kommissie vir spesifieke dienste gelewer of vir bestuur, of, behalwe in die geval van 'n bankonderneming, by wyse van rente op gelde geleen aan die hoofkantoor van die onderneming of enige van sy ander kantore, buite berekening gelaat by die vasstelling van die winste van 'n permanente saak.

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 deur sodanige toedeling as wat gebruiklik is, vas te stel nie. Die metode van toedeling wat gebruik word, moet egter sodanig wees dat die resultaat in ooreenstemming is met die beginsels in hierdie Artikel vervat.

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

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

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

Artikel 8

Skeepvaart, Lug- en Padvervoer

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

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

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

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

Article 9

Associated Enterprises

1. Where:

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

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

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

Article 10

Dividends

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

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

- (a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds at least 25 per cent of the capital of the company paying the dividends;
- (b) 15 per cent of the gross amount of the dividends in all other cases.

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

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

Artikel 9

Verwante Ondernemings

1. Waar:

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

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

2. Waar 'n Kontrakterende Staat by die winste van 'n onderneming van daardie Staat winste insluit - en dit dienoreenkomstig belas - waarop 'n onderneming van die ander Kontrakterende Staat in daardie ander Kontrakterende 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, kan daardie ander Staat 'n toepaslike aanpassing maak aan die bedrag van die belasting daarin gehef op sodanige winste. By die bepaling van sodanige aanpassing word die ander bepalinge van hierdie Ooreenkoms behoorlik in ag geneem en die bevoegde owerhede van die Kontrakterende State raadpleeg mekaar indien nodig.

Artikel 10

Dividende

1. Dividende betaal deur 'n maatskappy wat 'n inwoner van 'n Kontrakterende Staat is aan 'n inwoner van die ander Kontrakterende Staat, 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 ontvanger die bevoordeelde eienaar van die dividende is, 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 regstreeks minstens 25 persent hou van die kapitaal van die maatskappy wat die dividende betaal;
- (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 beperkinge deur onderlinge ooreenkoms.

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

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

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

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, no tax may be imposed in that other State on the dividends paid by the company except in so far as such dividends are paid to a resident of that other State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

Interest

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

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

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

4. The provisions of 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.

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 nie skuldeise is nie) wat in winste deel, 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. Die bepalinge 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 middel van '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 bepalinge 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, mag daardie ander Staat nie belasting hef 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 mag ook nie die maatskappy se onuitgekeerde winste onderwerp aan 'n belasting op 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, kan in daardie ander Staat belas word.

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

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

4. Die bepalinge 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 middel van 'n permanente saak daarin geleë, of in daardie ander Staat onafhanklike persoonlike dienste verrig vanaf 'n vaste basis daarin geleë, en die skuldeise ten opsigte waarvan die rente 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.

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

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

Article 12

Royalties

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

2. However, such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the recipient who is a resident of the other Contracting State beneficially owns the royalties, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

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

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

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

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

6. Waar, vanweë 'n besondere verband tussen die betaler en die bevoordeelde eenaar 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 waarvoor die betaler en die bevoordeelde eenaar by ontstentenis van sodanige verband sou ooreengekom het, is die bepaling 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 bepaling van hierdie Ooreenkoms.

Artikel 12

Tantièmes

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

2. Sodanige tantièmes kan egter ook in die Kontrakterende Staat waarin hulle ontstaan en ooreenkomstig die wette van daardie Staat belas word, maar indien die ontvanger wat 'n inwoner van die ander Kontrakterende Staat is die tantièmes voordelig besit, gaan die belasting aldus hef nie 10 persent van die bruto bedrag van die tantièmes te bowe nie.

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

4. Die bepaling van paragrawe 1 en 2 is nie van toepassing nie indien die bevoordeelde eenaar van die tantièmes, synde 'n inwoner van 'n Kontrakterende Staat, in die ander Kontrakterende Staat waarin die tantièmes ontstaan besigheid dryf deur middel van '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 bepaling van Artikel 7 of Artikel 14, na gelang van die geval, van toepassing.

5. Waar, vanweë 'n besondere verband tussen die betaler en die bevoordeelde eenaar of tussen albei van hulle en 'n ander persoon, die bedrag van die tantièmes betaal, met inagneming van die gebruik, reg of inligting waarvoor hulle betaal word, die bedrag te bowe gaan waarvoor die betaler en die bevoordeelde eenaar by ontstentenis van sodanige verband sou ooreengekom het, is die bepaling 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 bepaling van hierdie Ooreenkoms.

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

Article 13

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

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

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 or she has a fixed base regularly available to him or her in the other Contracting State for the purpose of performing his or her activities. If he or she has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base. For the purposes of this Agreement, 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 year of assessment concerned, he or she shall be deemed to have a fixed base regularly available to him or her in that other State and the income that is derived from his or her 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.

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

Artikel 13

Kapitaalwinste

1. Winste deur 'n inwoner van 'n Kontrakterende Staat verkry uit die vervreemding van onroerende eiendom in Artikel 6 bedoel en 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, met inbegrip van sodanige winste uit die vervreemding van so 'n 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 uit die vervreemding van skepe, vliegtuie of padvervoervoertuie wat in internasionale verkeer bedryf word, of roerende eiendom wat betrekking het op die bedryf van sodanige skepe, vliegtuie of padvervoervoertuie, is slegs in die Kontrakterende Staat waarin die plek van effektiewe bestuur van die onderneming geleë is, belasbaar.

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

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 of sy 'n vaste basis in die ander Kontrakterende Staat gereeld tot sy of haar beskikking het vir doel van die verrigting van sy of haar bedrywighede. Indien hy of sy sodanige vaste basis 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 Ooreenkoms, waar 'n individu wat 'n inwoner is van 'n Kontrakterende Staat, in die ander Kontrakterende Staat bly vir 'n tydperk of tydperke wat altesaam 183 dae in enige twaalfmaandetydperk beginnende of eindigende in die betrokke jaar van aanslag, te bowe gaan, word hy of sy geag 'n vaste basis in daardie ander Staat gereeld tot sy of haar beskikking te hê en die inkomste wat verkry word uit sy of haar 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 onderrigbedrywighede, sowel as die onafhanklike bedrywighede van geneeskundiges, regsgeleerdes, ingenieurs, argitekte, tandartse en rekenmeesters.

Article 15

Dependent Personal Services

1. Subject to the provisions of Articles 16, 18, 19 and 20, 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 year of assessment concerned; and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

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

Article 16

Directors' Fees

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

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

Article 17

Entertainers and Sportspersons

1. Notwithstanding the provisions of Articles 7, 14 and 15, income derived by entertainers such as theatre, motion picture, radio or television artistes, and musicians, and by sportspersons, from their personal activities as such, may be taxed in the Contracting State in which these activities are exercised.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his or her capacity as such accrues not to the entertainer or sportsperson 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 sportsperson are exercised.

Artikel 15***Afhanklike Persoonlike Dienste***

1. Behoudens die bepalings van Artikels 16, 18, 19 en 20 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 beginnende of eindigende in die betrokke jaar van aanslag, te bowe gaan nie; en
- (b) die besoldiging betaal word deur, of namens 'n werkgever wat nie 'n inwoner van die ander Staat is nie; en
- (c) die besoldiging nie gedra word deur 'n permanente saak of 'n vaste basis wat die werkgever in die ander Staat het nie.

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

Artikel 16***Direkteursgelde***

1. Direkteursgelde en soortgelyke betalings verkry deur 'n inwoner van 'n Kontrakterende Staat in sy of haar hoedanigheid van lid van die direksie van 'n maatskappy wat 'n inwoner van die ander Kontrakterende Staat is, kan in daardie ander Staat belas word.

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

Artikel 17***Verhoogkunstenars en Sportlui***

1. Ondanks die bepalings van Artikels 7, 14 en 15 kan inkomste verkry deur verhoogkunstenars, soos teater-, rolprent-, radio- of televisie-artieste, en musikante, en deur sportlui, uit hul persoonlike bedrywighe as sodanig, in die Kontrakterende Staat waarin dié bedrywighe beoefen word, belas word.

2. Waar inkomste ten opsigte van persoonlike bedrywighe wat deur 'n verhoogkunstenaar of 'n sportman in sy of haar hoedanigheid beoefen word nie aan die verhoogkunstenaar of sportman 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 bedrywighe van die verhoogkunstenaar of sportman beoefen word.

Article 18***Pensions and Annuities***

1. Any pension (other than a pension of the kind referred to in paragraph 2 of Article 19) and any annuity, derived from sources within a Contracting State by an individual who is a resident of the other Contracting State and is subject to tax on the whole or portion thereof in the other State, shall be exempt from tax in the first-mentioned State to the extent that it is subjected to tax in the other State.
2. The term "annuity" as used in this Article means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration (other than services rendered).

Article 19***Government Service***

1. Remuneration (other than pensions) paid by, or out of funds created by, one of the Contracting States, a political subdivision or a regional or local authority thereof to any individual for services rendered to that State or subdivision or authority in the discharge of governmental functions shall be exempt from tax in the other Contracting State if the individual is not ordinarily resident in that other State or is ordinarily resident in that other State solely for the purpose of rendering those services.
2. Any pension paid by, or out of funds created by, a Contracting State, a political subdivision or a regional or local authority thereof to any individual for services rendered to that State or subdivision or authority in the discharge of governmental functions shall be exempt from tax in the other Contracting State in so far as the remuneration for those services was exempt from tax in that other State under paragraph 1 of this Article or would have been so exempt if this Agreement had been in force when the remuneration was paid.
3. The provisions of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the Contracting States, a political subdivision or a regional or local authority thereof.

Article 20***Teachers***

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

Artikel 18

Pensioene en Annuïteite

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

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

Artikel 19

Regeringsdiens

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

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

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

Artikel 20

Onderwysers

Ondanks die bepalinge van Artikel 15, is 'n onderwyser wat 'n tydelike besoek aan een van die Kontrakterende State bring vir 'n tydperk wat nie twee jaar te bowe gaan nie met die doel om onderrig te gee aan 'n universiteit, kollege, skool of ander opvoedkundige inrigting in daardie Staat en wat 'n inwoner is, of onmiddellik voor sodanige besoek 'n inwoner was van die ander Kontrakterende Staat, in eersgenoemde Staat vrygestel van belasting ten opsigte van besoldiging vir sodanige onderrig, met dien verstande dat sodanige besoldiging deur hom of haar van buite daardie Staat verkry word en sodanige besoldiging in daardie ander Staat aan belasting onderhewig is.

Article 21

Students, Trainees and Apprentices

A student, trainee or apprentice who is present in a Contracting State solely for the purpose of his or her 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 or her maintenance, education or training.

Article 22

Other Income

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

2. The provisions of paragraph 1 shall not apply to income if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and 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

Where a resident of a Contracting State derives income or capital gains which, in accordance with the provisions of this Agreement, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income or capital gains of that resident an amount equal to the tax paid in that other State. Such deduction shall not, however, exceed an amount which bears to the total tax payable the same ratio as the taxable income concerned bears to the total taxable income.

Article 24

Non-discrimination

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. 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 21***Studente, Leerlinge en Vakdeerlinge***

'n Student, leerling of vakleerling wat in 'n Kontrakterende Staat teenwoordig is uitsluitlik vir die doel van sy of haar 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 of haar onderhoud, onderrig of opleiding.

Artikel 22***Ander Inkomste***

1. Inkomste-items wat nie in die voorgaande Artikels van hierdie Ooreenkoms behandel is nie, is slegs in die Kontrakterende Staat waarin hulle ontstaan, belasbaar.

2. Die bepaling van paragraaf 1 is nie van toepassing nie op inkomste indien die ontvanger van sodanige inkomste, synde 'n inwoner van 'n Kontrakterende Staat, in die ander Kontrakterende Staat besigheid dryf deur middel van 'n permanente saak daarin geleë, of in daardie ander Staat onafhanklike persoonlike dienste verrig vanaf 'n vaste basis daarin geleë, en die 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 bepaling van Artikel 7 of Artikel 14, na gelang van die geval, van toepassing.

Artikel 23***Uitskakeling van Dubbele Belasting***

Waar 'n inwoner van 'n Kontrakterende Staat inkomste of kapitaalwinste verkry wat in ooreenstemming met die bepaling van hierdie Ooreenkoms in die ander Kontrakterende Staat belas kan word, laat eersgenoemde Staat as 'n aftrekking teen die belasting op die inkomste of kapitaalwinste van daardie inwoner 'n bedrag toe wat gelyk is aan die belasting in daardie ander Staat betaal. Sodanige aftrekking gaan egter nie 'n bedrag wat in dieselfde verhouding tot die totale belasting betaalbaar staan as die verhouding waarin die betrokke belasbare inkomste tot die totale belasbare inkomste staan, te bowe nie.

Artikel 24***Nie-diskriminasie***

1. Die burgers van 'n Kontrakterende Staat mag nie in die ander Kontrakterende Staat onderwerp word aan enige belasting of enige vereiste in verband daarmee wat anders is of swaarder druk as die belasting en die daarmee verbonde vereistes waaraan burgers van daardie ander Staat onder dieselfde omstandighede onderworpe is of onderwerp kan word nie. Hierdie bepaling is, ondanks die bepaling van Artikel 1, ook van toepassing op persone wat nie inwoners van een 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 the first-mentioned State are or may be subjected.
4. Nothing in this Article shall be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
5. In this Article the term "taxation" means taxes which are the subject of this Agreement.

Article 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 or her in taxation not in accordance with this Agreement, he or she may, irrespective of the remedies provided by the domestic law of those States, present his or her case to the competent authority of the Contracting State of which he or she is a resident or, if his or her case comes under paragraph 1 of Article 24, to that of the Contracting State of which he or she 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 the Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.
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. Hierdie bepaling word nie uitgelê as sou dit 'n Kontrakterende Staat verplig om aan inwoners van die ander Kontrakterende Staat enige persoonlike toelatings, verligtings en verminderings vir belastingdoeleindes uit hoofde van burgerlike status of gesinsverantwoordelikhede toe te staan wat hy aan sy eie inwoners toestaan nie.

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

Artikel 25

Prosedure vir Onderlinge Ooreenkoms

1. Waar 'n persoon van mening is dat die optrede van een of van albei die Kontrakterende State tot gevolg het of tot gevolg sal hê dat hy of sy nie in ooreenstemming met hierdie Ooreenkoms belas word nie, kan hy of sy, ongeag die regsmiddels waarvoor die landsreg van daardie State voorsiening maak, sy of haar saak stel aan die bevoegde owerheid van die Kontrakterende Staat waarvan hy of sy 'n inwoner is of, indien sy of haar saak onder paragraaf 1 van Artikel 24 ressorteer, aan dié van die Kontrakterende Staat waarvan hy of sy '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 bepalings van die Ooreenkoms gehê 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 Ooreenkoms is nie. Enige ooreenkoms wat bereik word, word ondanks enige tydsbeperkings ingevolge die landsreg van die Kontrakterende State geïmplementeer.

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

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

Article 26***Exchange of Information***

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

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

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

Article 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 Agreement 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 bepalings van hierdie Ooreenkoms of van die landsreg van die Kontrakterende State aangaande belasting deur die Ooreenkoms gedek vir sover die belasting daarkragtens nie strydig met die Ooreenkoms 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 howe en administratiewe liggame) betrokke by die aanslaan of invordering van, die afdwing van of vervolging met betrekking tot, of die beslissing van appêle in verband met, die belasting deur die Ooreenkoms gedek. Sodanige persone of owerhede mag die inligting slegs vir sodanige doeleindes gebruik. Hulle kan die inligting by openbare hofverrigtinge of by regterlike beslissings gebruik.

2. In geen geval word die bepalings van paragraaf 1 uitgelê nie as sou dit 'n Kontrakterende Staat die verpligting 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 die openbare beleid 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 belasting in Artikel 2 bedoel te verhaal, asook rente en boetes met betrekking tot sodanige belasting, mits billike stappe om sodanige belasting 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 belasting verskuldig in die Kontrakterende Staat wat bystand verleen nie en die bepalings 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 Staat beslis die wyse van toepassing van die bepalings van hierdie Artikel deur onderlinge ooreenkoms.

Artikel 28

Lede van Diplomatieke Sendings en Konsulêre Poste

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

Article 29***Entry into Force***

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

2. The provisions of the Agreement shall apply:

- (a) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January next following the date upon which the Agreement enters into force;
- (b) in respect of other taxes, for years of assessment of the persons entitled to the benefits of the Agreement beginning on or after the first day of January next following the date upon which the Agreement enters into force; and
- (c) in respect of the provisions of Article 27, for taxes, interest and penalties which are outstanding or due on the date of entry into force of the Agreement.

3. The Agreement between the Minister of Finance of the Union of South Africa and the Administrator of the Territory of South West Africa which came into force on 29 May 1959, for the avoidance of double taxation and the prevention of fiscal evasion in respect of taxes on income shall be terminated with effect from the date of entry into force of this Agreement and shall cease to have effect for any year or period for which this Agreement has effect.

Article 30***Termination***

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

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

- (a) in respect of taxes withheld at source, for amounts paid or credited after the end of the calendar year in which such notice is given; and
- (b) in respect of other taxes, for years of assessment of the persons entitled to the benefits of the Agreement beginning after the end of the calendar year in which such notice is given.

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

DONE at Windhoek, Namibia in duplicate, this 18th day of May 1998.

**FOR THE GOVERNMENT OF
THE REPUBLIC OF SOUTH AFRICA**

**FOR THE GOVERNMENT OF
THE REPUBLIC OF NAMIBIA**

Artikel 29***Inwerkingtreding***

1. Elk van die Kontrakterende State stel die ander in kennis van die afhandeling van die prosedures wat ingevolge sy reg vereis word om hierdie Ooreenkoms in werking te stel. Die Ooreenkoms tree in werking sestig dae na die datum van die laaste van hierdie kennisgewings.
2. Die bepalings van die Ooreenkoms is van toepassing:
 - (a) ten opsigte van belastinge wat by die bron teruggehou word, vir bedrae betaal of gekrediteer op of na die eerste dag van Januarie eersvolgende op die datum waarop die Ooreenkoms in werking tree;
 - (b) ten opsigte van ander belastinge, vir jare van aanslag van die persone wat geregtig is op die voordele van die Ooreenkoms beginnende op of na die eerste dag van Januarie eersvolgende op die datum waarop die Ooreenkoms in werking tree: en
 - (c) ten opsigte van die bepalings van Artikel 27, vir belastinge, rente en boetes wat uitstaande of verskuldig is op die datum van inwerkingtreding van die Ooreenkoms.
3. Die Ooreenkoms tussen die Minister van Finansies van die Unie van Suid-Afrika en die Administrateur van die Gebied van Suidwes-Afrika vir die vermyding van dubbele belasting en die voorkoming van fiskale ontduiking ten opsigte van belastinge op inkomste wat op 29 Mei 1959 in werking getree het, word opgesê met ingang van die datum van inwerkingtreding van hierdie Ooreenkoms en is nie meer van krag nie vir enige jaar of tydperk waarvoor hierdie Ooreenkoms van krag is.

Artikel 30***Opsegging***

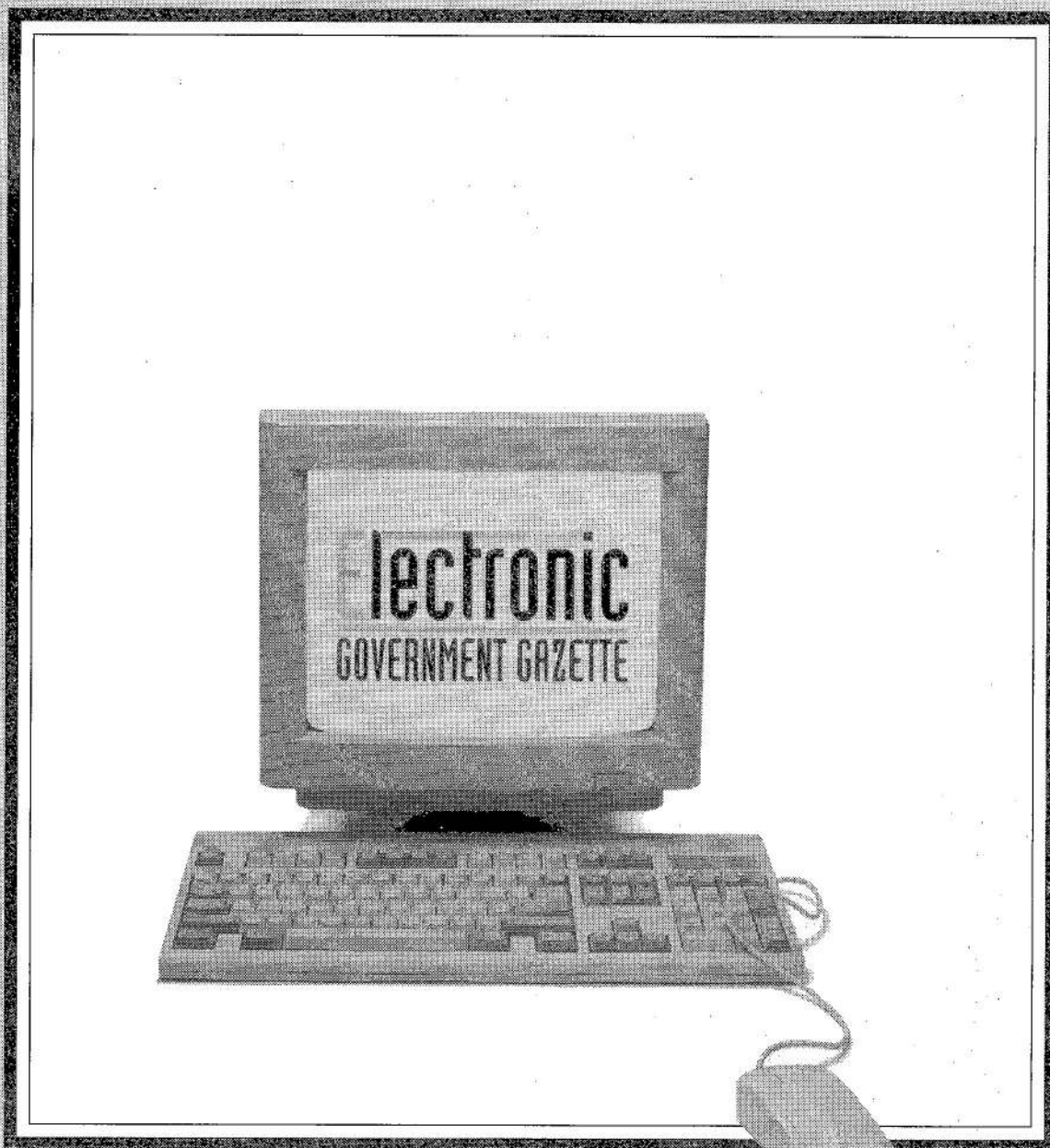
1. Hierdie Ooreenkoms bly vir 'n onbepaalde tyd van krag maar enigeen van die Kontrakterende State kan die Ooreenkoms langs diplomatieke kanale opseë deur aan die ander Kontrakterende Staat skriftelik kennis van opsegging te gee nie later nie as 30 Junie van enige kalenderjaar wat begin vyf jaar na die jaar waarin die Ooreenkoms in werking getree het.
2. In sodanige geval is die Ooreenkoms nie meer van krag nie:
 - (a) ten opsigte van belastinge wat by die bron teruggehou word, vir bedrae betaal of gekrediteer na die einde van die kalenderjaar waarin sodanige kennis gegee is; en
 - (b) ten opsigte van ander belastinge, vir jare van aanslag van die persone wat geregtig is op die voordele van die Ooreenkoms beginnende na die einde van die kalenderjaar waarin sodanige kennis gegee is.

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

GEDOEN, in tweevoud, te Windhoek, Namibië op hede die 18de dag van Mei 1998.

**NAMENS DIE REGERING VAN
DIE REPUBLIEK VAN SUID-AFRIKA**

**NAMENS DIE REGERING VAN
DIE REPUBLIEK NAMIBIË**



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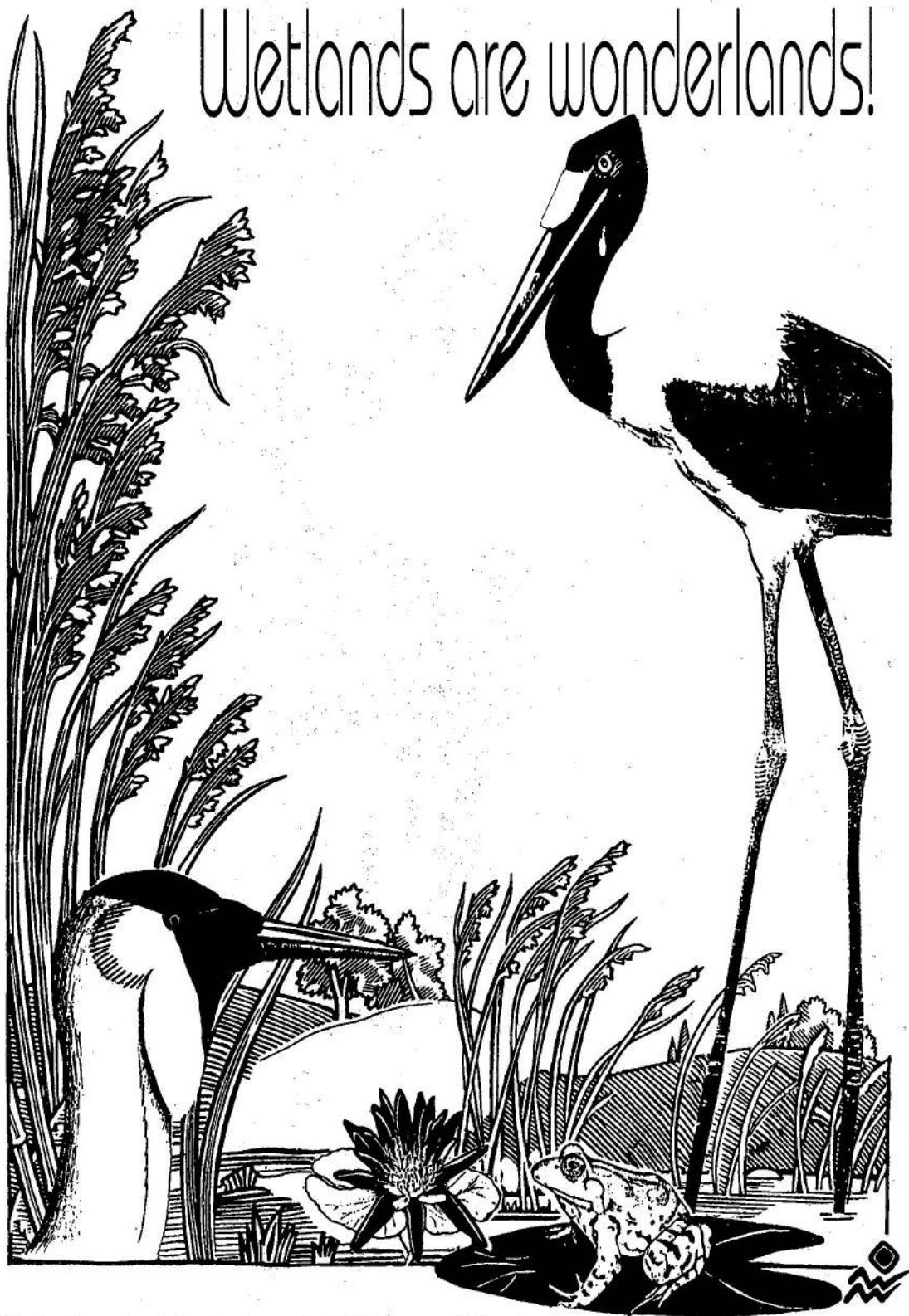
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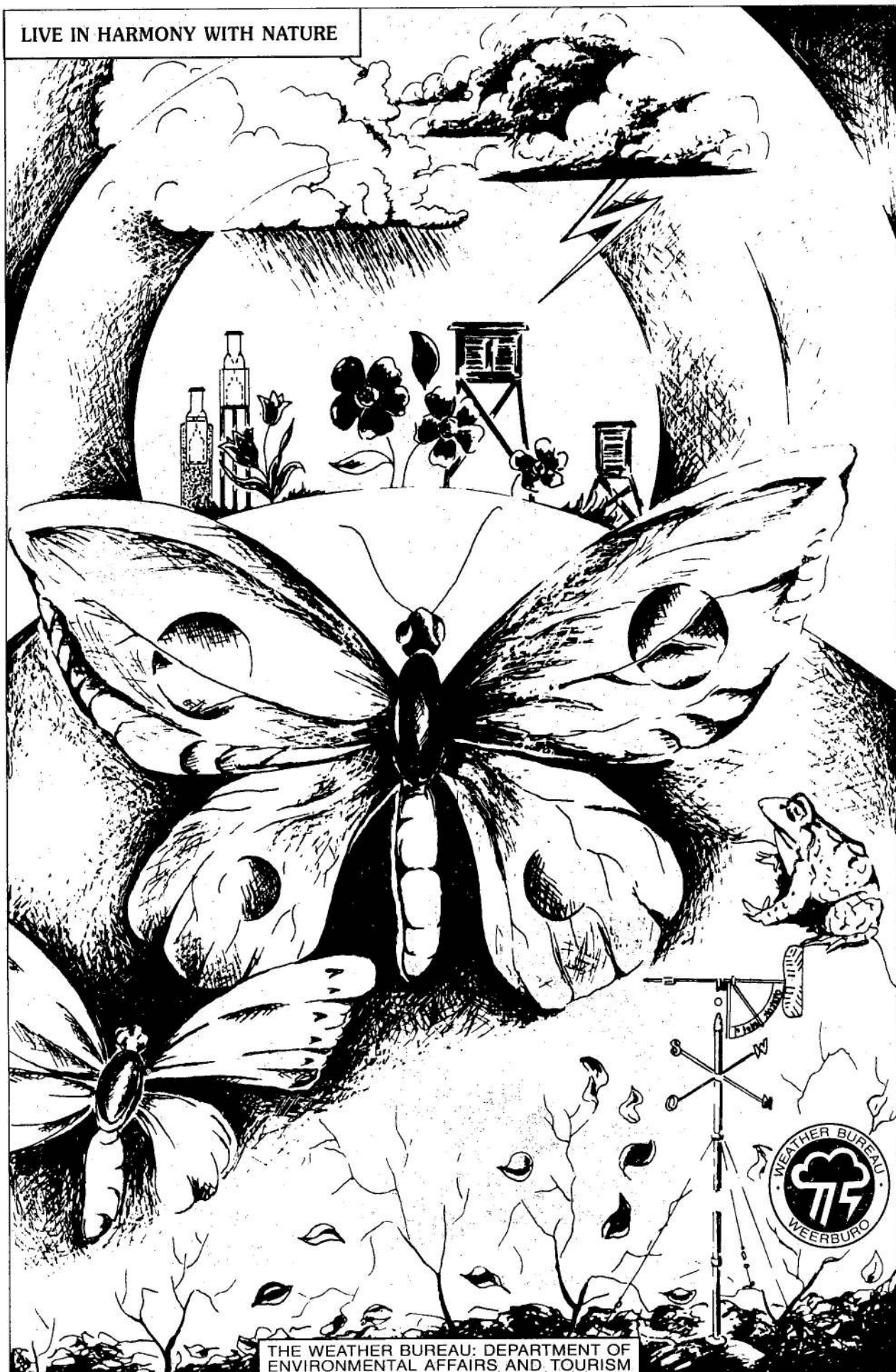


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THE WEATHER BUREAU: DEPARTMENT OF
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