



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 600

Pretoria, 17 June
Junie 2015

No. 38862

N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes



9771682584003



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

DISCLAIMER:

Government Printing Works reserves the right to apply the 25% discount to all Legal and Liquor notices that comply with the business rules for notice submissions for publication in gazettes.

National, Provincial, Road Carrier Permits and Tender notices will pay the price as published in the Government Gazettes.

For any information, please contact the eGazette Contact Centre on 012-748 6200 or email info.egazette@gpw.gov.za

CONTENTS**INHOUD**

No.	Page No.	Gazette No.	No.	Bladsy No.	Koerant No.
GOVERNMENT NOTICE			GOEWERMENSKENNISGEWING		
South African Revenue Service			Suid-Afrikaanse Inkomstediens		
<i>Government Notice</i>			<i>Goewermenskennisgewing</i>		
471			471		
Income Tax Act (58/1962): Agreement between the Government of the Republic of South Africa and the Government of the Republic of Mauritius for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.....			Ooreenkoms tussen die Regering van die Republiek van Suid-Afrika en die Regering van die Republiek van Mauritius ter vermyding van dubbele belasting en ter voorkoming van fiskale ontduiking met betrekking tot belasting op inkomste.....		
	2	38862		3	38862

GOVERNMENT NOTICE
GOEWERMENSKENNISGEWING

SOUTH AFRICAN REVENUE SERVICE
SUID-AFRIKAANSE INKOMSTEDIENS

No. 471

17 June 2015

INCOME TAX ACT, 1962

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

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 set out in the Schedule to this Notice has been entered into with the Government of the Republic of Mauritius 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 28 of the Agreement, that the date of entry into force is 28 May 2015.

No. 471

17 Junie 2015

INKOMSTEBELASTINGWET, 1962**OOREENKOMS TUSSEN DIE REGERING VAN DIE REPUBLIEK VAN SUID-AFRIKA EN DIE REGERING VAN DIE REPUBLIEK VAN MAURITIUS TER VERMYDING VAN DUBBELE BELASTING EN TER VOORKOMING VAN FISKALE ONTDUIKING MET BETREKKING TOT BELASTINGS OP INKOMSTE**

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 ter vermyding van dubbele belasting en ter voorkoming van fiskale ontduiking met betrekking tot belasting op inkomste wat in die Bylae tot hierdie Kennisgewing vervat is, aangegaan is met die Regering van die Republiek van Mauritius en deur die Parlement goedgekeur is ingevolge artikel 231(2) van die Grondwet.

Daar word verder bekendgemaak dat ingevolge paragraaf 1 van Artikel 28 van die Ooreenkoms, die datum van inwerkingtreding 28 Mei 2015 is.

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

PREAMBLE

The Government of the Republic of South Africa and the Government of the Republic of Mauritius;

DESIRING to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income;

HAVE AGREED AS FOLLOWS:

ARTICLE 1

PERSONS COVERED

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

ARTICLE 2

TAXES COVERED

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

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

3. The existing taxes to which this Agreement shall apply are:

(a) in Mauritius, the income tax:

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

(b) in South Africa:

- (i) the normal tax;
- (ii) the secondary tax on companies;
- (iii) the withholding tax on royalties; and
- (iv) the tax on foreign entertainers and sportspersons;

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

OOREENKOMS TUSSEN DIE REGERING VAN DIE REPUBLIEK VAN SUID-AFRIKA EN DIE REGERING VAN DIE REPUBLIEK VAN MAURITIUS TER VERMYDING VAN DUBBELE BELASTING EN TER VOORKOMING VAN FISKALE ONTDUIKING MET BETREKKING TOT BELASTINGS OP INKOMSTE

AANHEF

Die Regering van die Republiek van Suid-Afrika en die Regering van die Republiek van Mauritius;

BEGERIG om 'n Ooreenkoms aan te gaan ter vermyding van dubbele belasting en ter voorkoming van fiskale ontduiking ten opsigte van belasting op inkomste;

HET SOOS VOLG OOREENGEKOM:

ARTIKEL 1

PERSONE GEDEK

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

ARTIKEL 2

BELASTINGS GEDEK

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

2. Alle belasting op totale inkomste gehef word, of op elemente van inkomste, insluitende belasting op winste uit die vervreemding van roerende of onroerende eiendom, word as belasting op inkomste beskou.

3. Die bestaande belasting waarop die Ooreenkoms van toepassing is, is:

(a) in Mauritius, die inkomstebelasting;

(hierna "Mauritiaanse belasting" genoem); en

(b) in Suid-Afrika:

(i) die normale belasting;

(ii) die sekondêre belasting op maatskappye;

(iii) die terughoubelasting op tantième; en

(iv) die belasting op buitelandse vermaaklikheidskunstenaars en sportpersone;

(hierna "Suid-Afrikaanse belasting" genoem).

4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed 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 that have been made in their taxation laws.

ARTICLE 3

GENERAL DEFINITIONS

1. In this Agreement, unless the context otherwise requires:
 - (a) the term "Mauritius" means the Republic of Mauritius and includes:
 - (i) all the territories and islands which, in accordance with the laws of Mauritius, constitute the State of Mauritius;
 - (ii) the territorial sea of Mauritius; and
 - (iii) any area outside the territorial sea of Mauritius which in accordance with international law has been or may hereafter be designated, under the laws of Mauritius, as an area, including the Continental Shelf, within which the rights of Mauritius with respect to the sea, the sea bed and sub-soil and their natural resources may be exercised;
 - (b) the term "South Africa" means the Republic of South Africa and, when used in a geographical sense, includes the territorial sea thereof as well as any area outside the territorial sea, including the continental shelf, which has been or may hereafter be designated, under the laws of South Africa and in accordance with international law, as an area within which South Africa may exercise sovereign rights or jurisdiction;
 - (c) the terms "a Contracting State" and "the other Contracting State" mean Mauritius or South Africa as the context requires;
 - (d) the term "business" includes the performance of professional services and of other activities of an independent character;
 - (e) the term "company" means any body corporate or any entity which is treated as a company or body corporate for tax purposes;
 - (f) the term "competent authority" means:
 - (i) in Mauritius, the Director General of the Mauritius Revenue Authority or an authorised representative of the Director General; and
 - (ii) in South Africa, the Commissioner for the South African Revenue Service or an authorised representative of the Commissioner;
 - (g) the term "enterprise" applies to the carrying on of any business;

4. Die Ooreenkoms is ook van toepassing op enige identiese of wesenlik soortgelyke belastinge wat na die datum van ondertekening van die Ooreenkoms benewens of in die plek van die bestaande belastinge gehef word. Die bevoegde owerhede van die Kontrakterende State moet mekaar in kennis stel van enige beduidende veranderinge wat aan hulle onderskeie belastingwette aangebring is.

ARTIKEL 3

ALGEMENE WOORDOMSKRYWING

1. In hierdie Ooreenkoms, tensy dit uit die samehang anders blyk:
 - (a) beteken die uitdrukking "Mauritius" die Republiek van Mauritius en ook:
 - (i) al die gebiede en eilande wat, ooreenkomstig die wette van Mauritius, die Staat Mauritius uitmaak;
 - (ii) die gebiedswaters van Mauritius; en
 - (iii) enige gebied buite die gebiedswaters van Mauritius, ook die vastelandsplat, wat ooreenkomstig die volkereg en kragtens die wette van Mauritius aangewys is of hierna aangewys word as 'n gebied waarbinne die regte van Mauritius ten opsigte van die see, die seabodem en ondergrond en die natuurlike hulpbronne daarvan uitgeoefen kan word;
 - (b) beteken die uitdrukking "Suid-Afrika" die Republiek van Suid-Afrika en, wanneer dit in 'n geografiese sin gebruik word, ook die gebiedswaters daarvan asook enige gebied buite die gebiedswaters, insluitende die vastelandsplat, wat ingevolge die wette van Suid-Afrika en ooreenkomstig die volkereg aangewys is of hierna aangewys word as 'n gebied waarbinne Suid-Afrika soewereine regte of jurisdiksie kan uitoefen;
 - (c) beteken die uitdrukkings "'n Kontrakterende Staat" en "die ander Kontrakterende Staat" Mauritius of Suid-Afrika, na gelang van die samehang;
 - (d) beteken die uitdrukking "besigheid" ook die verrigting van beroepsdienste en van ander bedrywigheede van 'n onafhanklike aard;
 - (e) beteken die uitdrukking "maatskappy" enige regspersoon of enige entiteit wat vir belastingdoeleindes as 'n maatskappy of regspersoon behandel word;
 - (f) beteken die uitdrukking "bevoegde owerheid":
 - (i) in Mauritius, die Direkteur-generaal van die Mauritiaanse Inkomste-owerheid of 'n gemagtigde verteenwoordiger van die Direkteur-generaal; en
 - (ii) in Suid-Afrika, die Kommissaris van die Suid-Afrikaanse Inkomstediens of 'n gemagtigde verteenwoordiger van die Kommissaris;
 - (g) het die uitdrukking "onderneming" betrekking op die dryf van enige besigheid;

- (h) 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;
- (i) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (j) the term “national”, in relation to a Contracting State, means:
 - (i) any individual possessing the nationality or citizenship of that Contracting State; and
 - (ii) any legal person or association deriving its status as such from the laws in force in that Contracting State;
- (k) the term “person” includes an individual, a company and any other body of persons which is treated as an entity for tax purposes; and
- (l) the term “tax” means Mauritius tax or South African tax, as the context requires.

2. As regards the application of the Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that 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 person who, under the laws of that State, is liable to tax therein by reason of that person’s domicile, residence, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

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

- (a) the individual shall be deemed to be a resident of the State in which a permanent home is available to the individual, if a permanent home is available to the individual in both States, the individual shall be deemed to be a resident only of the State with which the individual’s personal and economic relations are closer (centre of vital interests);

- (h) beteken die uitdrukking "onderneming van 'n Kontrakterende Staat" en "onderneming van die ander Kontrakterende Staat" onderskeidelik 'n onderneming wat deur 'n inwoner van 'n Kontrakterende Staat gedryf word en 'n onderneming wat deur 'n inwoner van die ander Kontrakterende Staat gedryf word;
- (i) beteken die uitdrukking "internasionale verkeer" enige vervoer per skip of lugvaartuig wat deur 'n onderneming van 'n Kontrakterende Staat bedryf word, uitgesonderd waar die skip of lugvaartuig slegs tussen plekke in die ander Kontrakterende Staat bedryf word;
- (j) beteken die uitdrukking "burger", met betrekking tot 'n Kontrakterende Staat:
 - (i) enige individu wat burgerskap van daardie Kontrakterende Staat het; en
 - (ii) enige regspersoon of vereniging wat sy status as sodanig verkry uit die wette wat in daardie Kontrakterende Staat van krag is;
- (k) beteken die uitdrukking "persoon" ook 'n individu, 'n maatskappy en enige ander liggaam van persone wat vir belastingdoeleindes as 'n entiteit behandel word; en
- (l) beteken die uitdrukking "belasting" Mauritiaanse belasting of Suid-Afrikaanse belasting, na gelang van die samehang.

2. Betreffende die toepassing van die Ooreenkoms te eniger tyd deur 'n Kontrakterende Staat het enige uitdrukking wat nie daarin omskryf is nie, tensy dit uit die samehang anders blyk, die betekenis wat dit op daardie tydstip ingevolge die reg van daardie Staat het vir doeleindes van die belasting waarop die Ooreenkoms van toepassing is, en geniet enige betekenis ingevolge die toepaslike belastingwette van daardie Staat voorrang bo 'n betekenis wat ingevolge ander wette van daardie Staat aan die uitdrukking geheg is.

ARTIKEL 4

INWONER

1. Vir doeleindes van hierdie Ooreenkoms beteken die uitdrukking "inwoner van 'n Kontrakterende Staat" enige persoon wat ingevolge die wette van daardie Staat aanspreeklik is vir belasting daarin as gevolg van daardie persoon se domisilie, verblyf, plek van bestuur of enige ander kriterium van soortgelyke aard, en sluit dit ook daardie Staat en enige staatkundige onderverdeling of plaaslike owerheid daarvan in. Hierdie uitdrukking sluit egter nie 'n persoon in wat in daardie Staat net ten opsigte van inkomste uit bronne in daardie Staat belastingpligtig is nie.

2. Waar 'n individu uit hoofde van die bepalings van paragraaf 1 van hierdie Artikel 'n inwoner van albei Kontrakterende State is, word daardie individu se status soos volg bepaal:

- (a) die individu word geag 'n inwoner te wees van die Staat waarin 'n permanente tuiste tot die individu se beskikking is; indien 'n permanente tuiste in albei State tot die individu se beskikking is, word die individu geag 'n inwoner te wees net van die Staat waarmee die individu se persoonlike en ekonomiese betrekkinge die nouste is (tuiste van lewensbelange);

- (b) if the State in which the centre of vital interests is situated cannot be determined, or if the individual does not have a permanent home available to that person in either State the individual, shall be deemed to be a resident of the State in which the individual has an habitual abode;
- (c) if the individual has an habitual abode in both States or in neither of them, the individual shall be deemed to be a resident of the State of which the individual is a national;
- (d) if the individual 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, the competent authorities of the Contracting States shall by mutual agreement endeavour to settle the question and determine the mode of application of the Agreement to such person. In the absence of such agreement such person shall be considered to be outside the scope of the Agreement except for the provisions of Article 25.

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" shall include:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a warehouse, in relation to a person providing storage facilities for others;
- (g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources; and
- (h) an installation or structure used for the exploration of natural resources.

3. The term "permanent establishment" likewise encompasses:

- (a) a building site or a construction, installation or assembly project, or supervisory activities in connection therewith, but only if the site, project or activity lasts more than twelve months;

- (b) indien die Staat waarin die tuiste van lewensbelange geleë is nie bepaal kan word nie, of indien die individu nie 'n permanente tuiste in enige van die State beskikbaar het nie, word die individu geag 'n inwoner te wees van die Staat waarin die individu 'n gebruikelike verblyfplek het;
- (c) indien die individu 'n gebruikelike verblyfplek in albei State of in nie een van hulle het nie, word die individu geag 'n inwoner te wees van die Staat waarvan die individu 'n burger is;
- (d) indien die individu 'n burger van albei State of van nie een van hulle is nie, moet die bevoegde owerhede van die Kontrakterende State die saak deur onderlinge ooreenkoms beslis.

3. Waar uit hoofde van die bepalings van paragraaf 1 'n ander persoon as 'n individu 'n inwoner van albei Kontrakterende State is, moet die bevoegde owerhede van die Kontrakterende State die saak deur onderlinge ooreenkoms beslis en die wyse van toepassing van die Ooreenkoms op daardie persoon bepaal. By ontstentenis van sodanige ooreenkoms word daardie persoon geag buite die bestek van die Ooreenkoms te val, uitgesonderd die bepalings van Artikel 25.

ARTIKEL 5

PERMANENTE SAAK

1. Vir doeleindes van hierdie Ooreenkoms beteken die uitdrukking "permanente saak" 'n vaste besigheidsplek waardeur die besigheid van die onderneming in geheel of gedeeltelik gedryf word.

2. Die uitdrukking "permanente saak" sluit in:

- (a) 'n plek van bestuur;
- (b) 'n tak;
- (c) 'n kantoor;
- (d) 'n fabriek;
- (e) 'n werkwinkel;
- (f) 'n pakhuis, met betrekking tot 'n persoon wat opbergingsfasiliteite aan ander verskaf;
- (g) 'n myn, 'n olie- of gasbron, 'n steengroef of enige ander plek van ontginning van natuurlike hulpbronne; en
- (h) 'n installasie of struktuur wat gebruik word vir die eksplorاسie van natuurlike hulpbronne.

3. Die uitdrukking "permanente saak" behels eweneens:

- (a) 'n bouperseel of 'n konstruksie, 'n monteer- of installeerprojek of toesighoudende bedrywighede in verband met so 'n perseel of projek, maar net waar so 'n perseel, projek of bedrywigheid langer as twaalf maande duur;

- (b) the furnishing of services by an enterprise through employees or other personnel engaged by an 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 exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned;
- (c) the performance of professional services or other activities of an independent character by an individual, but only where those services or activities continue within a Contracting State for a period or periods exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned.

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

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

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

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

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

- (b) die lewering van dienste deur 'n onderneming deur middel van werknemers of ander personeel wat vir sodanige doel deur 'n onderneming in diens geneem word, maar slegs as bedrywigheede van daardie aard voortduur (vir dieselfde projek of 'n projek daaraan verbonde) in die Kontrakterende Staat vir 'n tydperk of tydperke wat altesaam meer is as 183 dae in enige twaalfmaandetydperk wat in die betrokke fiskale jaar begin of eindig;
- (c) die verrigting van beroepsdienste of ander bedrywigheede van 'n onafhanklike aard deur 'n individu, maar slegs as daardie dienste en bedrywigheede voortduur in 'n Kontrakterende Staat vir 'n tydperk of tydperke wat altesaam meer is as 183 dae in enige twaalfmaandetydperk wat in die betrokke fiskale jaar begin of eindig.

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

- (a) die gebruik van fasiliteite uitsluitlik met die doel om goedere of handelsware wat aan die onderneming behoort, op te berg, te vertoon of te lewer;
- (b) die instandhouding van 'n voorraad goedere of handelsware wat aan die onderneming behoort, uitsluitlik met die doel om dit op te berg, te vertoon of te lewer;
- (c) die instandhouding van 'n voorraad goedere of handelsware wat aan die onderneming behoort, uitsluitlik vir die doel van verwerking deur 'n ander onderneming;
- (d) die instandhouding van 'n vaste besigheidsplek uitsluitlik met die doel om vir die onderneming goedere of handelsware aan te koop of inligting in te win;
- (e) die instandhouding van 'n vaste besigheidsplek uitsluitlik vir die doel van advertering, inligtingverskaffing, wetenskaplike navorsing of soortgelyke bedrywigheede van 'n voorbereidende of bykomstige aard vir die onderneming; en
- (f) die instandhouding van 'n vaste besigheidsplek uitsluitlik vir enige kombinasie van bedrywigheede in subparagrafe (a) tot (e) genoem, met dien verstande dat die oorkoepelende bedrywigheid van die vaste besigheidsplek wat uit hierdie kombinasie voortspruit, van 'n voorbereidende of bykomstige aard is.

5. Ondanks die bepalings van paragrafe 1 en 2, waar 'n persoon – uitgesonderd 'n agent met onafhanklike status op wie paragraaf 6 van toepassing is – in 'n Kontrakterende Staat namens 'n onderneming optree en die gesag het, en dit gereeld uitoefen, om namens die onderneming kontrakte aan te gaan, word daardie onderneming geag 'n permanente saak in daardie Staat te hê ten opsigte van enige bedrywigheede wat daardie persoon vir die onderneming onderneem, tensy die bedrywigheede van daardie persoon beperk is tot dié in paragraaf 4 genoem, wat, indien dit deur 'n vaste besigheidsplek uitgeoefen word, hierdie vaste besigheidsplek nie ingevolge die bepalings van daardie paragraaf 'n permanente saak sal maak nie.

6. 'n Onderneming word nie geag 'n permanente saak in 'n Kontrakterende Staat te hê bloot omdat hy in daardie Staat deur 'n makelaar, algemene kommissieagent of enige ander agent met onafhanklike status besigheid dryf nie, met dien verstande dat sulke persone in die gewone loop van hulle besigheid handel.

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

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property, including income from agriculture or forestry, is taxable in the Contracting State in which such property is situated.
2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources. Ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 of this Article 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 of this Article shall also apply to the income from immovable property of an enterprise.

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 of this Article, 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.

ARTIKEL 6**INKOMSTE UIT ONROERENDE EIENDOM**

1. Inkomste wat 'n inwoner van 'n Kontrakterende Staat uit onroerende eiendom verkry (ook inkomste uit landbou of bosbou), is belasbaar in die Kontrakterende Staat waarin daardie eiendom geleë is.
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 elk geval eiendom in bykomstig by onroerende eiendom, lewende hawe en toerusting wat in die landbou en bosbou gebruik word, regte waarop die bepalinge van die algemene reg ten opsigte van grondbesit van toepassing is, vruggebruik op onroerende eiendom en regte op veranderlike of vaste betalings as vergoeding vir die ontginning, of die reg op die ontginning, van mineraalafsettings, bronne en ander natuurlike hulpbronne. Skepe, bote en lugvaartuie word nie as onroerende eiendom beskou nie.
3. Die bepalinge van paragraaf 1 van hierdie Artikel 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 van hierdie Artikel is ook van toepassing op die inkomste uit die onroerende eiendom van 'n onderneming.

ARTIKEL 7**BESIGHEIDSWINSTE**

1. Die winste van 'n onderneming van 'n Kontrakterende Staat is net in daardie Staat belasbaar, tensy die onderneming in die ander Kontrakterende Staat besigheid dryf deur 'n permanente saak wat daarin geleë is. Indien die onderneming besigheid dryf soos voormelde, kan die winste van die onderneming in die ander Staat belas word maar net soveel daarvan as wat aan daardie permanente saak toeskryfbaar is.
2. Behoudens die bepalinge van paragraaf 3 van hierdie Artikel, 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 maak as hy 'n aparte en afsonderlike onderneming was wat besig was met dieselfde of soortgelyke bedrywighede onder dieselfde of soortgelyke omstandighede en heeltemal onafhanklik teenoor die onderneming opgetree het waarvan hy 'n permanente saak is.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than 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 determining the profits of a permanent establishment, of 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 of this Article shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

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

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

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

ARTICLE 8

SHIPPING AND AIR TRANSPORT

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

3. By die vasstelling van die winste van 'n permanente saak word die uitgawes wat vir die doeleindes van die permanente saak aangegaan is, ook uitvoerende en algemene administratiewe uitgawes aldus aangegaan, as aftrekkings toegelaat, hetsy in die Kontrakterende Staat waarin die permanente saak geleë is of elders. Geen sodanige aftrekking word egter toegelaat nie ten opsigte van bedrae, as daar is, wat die permanente saak aan die hoofkantoor van die onderneming of enige van sy ander kantore betaal (behalwe vir die terugbetaling van werklike uitgawes) by wyse van tantième, 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, uitgesonderd in die geval van 'n bankonderneming, by wyse van rente op gelde wat aan die permanente saak geleen is. Insgelyks word daar by die vasstelling van die winste van 'n permanente saak geen ag geslaan nie op bedrae (behalwe vir die terugbetaling van werklike uitgawes) wat deur die permanente saak teen die hoofkantoor van die onderneming of enige van sy ander kantore gehef word by wyse van tantième, 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, uitgesonderd in die geval van 'n bankonderneming, by wyse van rente op gelde wat aan die hoofkantoor van die onderneming of enige van sy ander kantore geleen is.

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

5. Geen wins word aan 'n permanente saak toegeskryf nie as gevolg van die blote aankoop deur daardie permanente saak van goedere of handelsware vir die onderneming.

6. Vir doeleindes van die voorgaande paragrawe van hierdie Artikel word die wins wat aan die permanente saak toegeskryf moet word, jaar na jaar volgens dieselfde metode vasgestel tensy daar goeie en afdoende redes vir die teendeel is.

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

ARTIKEL 8

SKEEPS- EN LUGVERVOER

1. Wins van 'n onderneming van 'n Kontrakterende Staat uit die bedryf van skepe of lugvaartuie in internasionale verkeer is net in daardie Staat belasbaar.

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

- (a) profits from the rental on a bareboat basis of ships or aircraft; and
- (b) profits from the use or rental of containers (including trailers and related equipment for the transport of containers), used for the transport of goods or merchandise;

where such rental or use is incidental to the operation of ships or aircraft in international traffic.

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

ARTICLE 9

ASSOCIATED ENTERPRISES

1. Where:

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

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

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

2. Vir die doeleindes van hierdie Artikel sluit wins uit die bedryf van skepe of lugvaartuie in internasionale verkeer in:

- (a) winste uit die verhuring op 'n sonder-bemanning-basis van skepe of lugvaartuie; en
- (b) wins uit die gebruik of verhuring van houers (insluitende treilers en verwante toerusting vir die vervoer van houers) wat vir die vervoer van goedere of handelsware gebruik word,

waar sodanige huur of gebruik bykomstig is by die bedryf van skepe of lugvaartuie in internasionale verkeer.

3. Die bepalings van paragraaf 1 is ook van toepassing op wins uit deelname aan 'n poel, 'n gesamentlike besigheid of 'n internasionale bedryfsagentskap.

ARTIKEL 9

VERWANTE ONDERNEMINGS

1. Waar –

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

en in enigeen van die gevalle voorwaardes tussen die twee ondernemings in hulle handels- of finansiële betrekkinge gestel of opgelê word wat verskil van dié wat tussen onafhanklike ondernemings gestel sou word, kan enige wins 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 wins van daardie onderneming ingesluit en dienoreenkomstig belas word.

2. Waar 'n Kontrakterende Staat by die wins van 'n onderneming van daardie Staat wins insluit – en dit dienoreenkomstig belas – waarop 'n onderneming van die ander Kontrakterende Staat in daardie ander Staat belas is en die wins aldus ingesluit wins is wat aan die onderneming van eersgenoemde Staat sou toegeval het indien die voorwaardes wat tussen die twee ondernemings gestel is, dieselfde was as dié wat tussen onafhanklike ondernemings gestel sou gewees het, moet daardie ander Staat die bedrag van die belasting wat hy op daardie wins hef, toepaslik aanpas. By die vasstelling van sodanige aanpassing moet daar behoorlik ag geslaan word op die ander bepalings van hierdie Ooreenkoms en moet die bevoegde owerhede van die Kontrakterende State met mekaar oorleg pleeg indien nodig.

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 to the beneficial owner 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 10 per cent of the capital of the company paying the dividends;
- (b) 10 per cent of the gross amount of the dividends in all other cases.

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

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 of this Article shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case, the provisions of Article 7 shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, no tax may be imposed on the beneficial owner in that other State on the dividends paid by the company except in so far as such dividends are paid to a resident of that other State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment 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.

ARTIKEL 10**DIVIDENDE**

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

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

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

Die bevoegde owerhede van die Kontrakterende State moet by onderlinge ooreenkoms besluit oor die wyse van toepassing van hierdie beperkings.

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

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

4. Die bepalings van paragrawe 1 en 2 van hierdie Artikel is nie van toepassing nie indien die voordelige eienaar van die dividende, wat 'n inwoner van 'n Kontrakterende Staat is, in die ander Kontrakterende Staat, waarvan die maatskappy wat die dividende betaal 'n inwoner is, besigheid dryf deur middel van 'n permanente saak wat daarin geleë is, en die aandeelhouding ten opsigte waarvan die dividende betaal word, effektief aan sodanige permanente saak verbonde is. In sodanige geval is die bepalings van Artikel 7 van toepassing.

5. Waar 'n maatskappy wat 'n inwoner van 'n Kontrakterende Staat is, wins of inkomste uit die ander Kontrakterende Staat verkry, mag die voordelige eienaar in daardie ander Staat geen belasting opgelê word op die dividende wat deur die maatskappy betaal word nie, uitgesonderd in soverre sodanige dividende aan 'n inwoner van daardie ander Staat betaal word of in soverre die aandeelhouding ten opsigte waarvan die dividende betaal word, effektief verbonde is aan 'n permanente saak wat in daardie ander Staat geleë is, en onderwerp hy ook nie die maatskappy se onuitgekeerde wins aan 'n belasting op onuitgekeerde wins nie, selfs al bestaan die dividende wat betaal word of die onuitgekeerde wins in geheel of gedeeltelik uit wins of inkomste wat in sodanige ander Staat ontstaan.

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 beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

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

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be exempt from tax in that State if:

- (a) the payer of the interest is the Government of that Contracting State or a political subdivision or a local authority thereof; or
- (b) the interest is paid to the Government of the other Contracting State or a political subdivision or a local authority thereof; or
- (c) the interest is paid by the Central Bank of that Contracting State or to the Central Bank of the other Contracting State; or
- (d) the interest is paid to any institution or body which is wholly owned, directly or indirectly, by the other Contracting State or a political subdivision or a local authority thereof; or
- (e) the interest arises in respect of any debt instrument listed on a recognised stock exchange.

4. For the purposes of paragraph 3(e), the term "recognised stock exchange" means:

- (a) in Mauritius, the Stock Exchange of Mauritius;
- (b) in South Africa, the Johannesburg Stock Exchange;
- (c) any other stock exchange agreed upon by the competent authorities of the Contracting States.

5. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purposes of this Article. The term "interest" shall not include any item which is treated as a dividend under the provisions of Article 10 of this Agreement.

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 in ooreenstemming met die wette van daardie Staat belas word, maar as die voordelige eienaar van die rente 'n inwoner van die ander Kontrakterende Staat is, mag die belasting wat aldus gehef word, nie meer as 10 persent van die bruto bedrag van die rente wees nie.

Die bevoegde owerhede van die Kontrakterende State moet deur onderlinge ooreenkoms besluit oor die wyse van toepassing van hierdie beperking.

3. Ondanks die bepalings van paragraaf 2, word rente wat in 'n Kontrakterende Staat ontstaan in daardie Staat vrygestel van belasting indien:

- (a) die betaler van die rente die Regering van daardie Kontrakterende Staat of 'n staatkundige onderverdeling of 'n plaaslike owerheid daarvan is; of
- (b) die rente betaal word aan die Regering van die ander Kontrakterende Staat of 'n staatkundige onderverdeling of 'n plaaslike owerheid daarvan; of
- (c) die rente betaal word deur die Sentrale Bank van daardie Kontrakterende Staat of aan die Sentrale Bank van die ander Kontrakterende Staat; of
- (d) die rente betaal word aan 'n instelling of liggaam wat, regstreeks of onregstreeks, in geheel besit word deur die ander Kontrakterende Staat of 'n staatkundige onderverdeling of 'n plaaslike owerheid daarvan; of
- (e) die rente ontstaan ten opsigte van enige skuldinstrument wat op 'n erkende effektebeurs genoteer is.

4. Vir die doeleindes van paragraaf 3(e), beteken die uitdrukking "erkende effektebeurs":

- (a) in Mauritius, die Effektebeurs van Mauritius;
- (b) in Suid-Afrika, the Johannesburgse Effektebeurs;
- (c) enige ander effektebeurs waarop die bevoegde owerhede van die Kontrakterende State ooreenkom.

5. Die uitdrukking "rente" soos dit in hierdie Artikel gebruik word, beteken inkomste uit alle soorte skuldeise, hetsy deur 'n verband gesekureer al dan nie en hetsy dit 'n reg inhou om in die skuldenaar se wins te deel al dan nie, en in die besonder inkomste uit staatseffekte en inkomste uit obligasies of skuldbriewe, insluitende premies en pryse verbonde aan sodanige effekte, obligasies of skuldbriewe. Boeteheffings vir laat betaling word vir die doel van hierdie Artikel nie as rente beskou nie. Die uitdrukking "rente" sluit nie enige item in wat kragtens die bepalings van Artikel 10 van hierdie Ooreenkoms as 'n dividend behandel word nie.

6. The provisions of paragraphs 1, 2 and 3 of this Article shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case, the provisions of Article 7 shall apply.

7. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether that person is a resident of a Contracting State or not, has in a Contracting State a permanent establishment with which the debt-claim in respect of which the interest is paid is effectively connected, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.

8. 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 beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.

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

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, information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 of this Article shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case, the provisions of Article 7 shall apply.

6. Die bepalings van paragrawe 1, 2 en 3 van hierdie Artikel is nie van toepassing nie indien die voordelige eienaar van die rente wat 'n inwoner van 'n Kontrakterende Staat is, in die ander Kontrakterende Staat waarin die rente ontstaan, besigheid dryf deur 'n permanente saak wat daarin geleë is, en die skuldeis ten opsigte waarvan die rente betaal word, effektief aan sodanige permanente saak verbonde is. In sodanige geval is die bepalings van Artikel 7 van toepassing.

7. Rente word geag in 'n Kontrakterende Staat te ontstaan wanneer die betaler 'n inwoner van daardie Staat is. Waar die persoon wat die rente betaal, hetsy daardie persoon 'n inwoner van 'n Kontrakterende Staat is al dan nie, in 'n Kontrakterende Staat 'n permanente saak het waaraan die skuldeis ten opsigte waarvan die rente betaal word, effektief verbonde is, en sodanige rente deur sodanige permanente saak gedra word, word sodanige rente egter geag te ontstaan in die Staat waarin die permanente saak geleë is.

8. Waar, vanweë 'n besondere verhouding tussen die betaler en die voordelige eienaar of tussen hulle albei en 'n ander persoon, die bedrag van die rente, met inagneming van die skuldeis waarvoor dit betaal word, meer is as die bedrag waarop die betaler en die voordelige eienaar sou ooreengekom het by ontstentenis van so 'n verhouding, is die bepalings van hierdie Artikel net op laasgenoemde bedrag van toepassing. In sodanige geval bly die oormaatdeel van die betalings belasbaar ooreenkomstig die wette van elk van die Kontrakterende State, met behoorlike inagneming van die ander bepalings van hierdie Ooreenkoms.

ARTIKEL 12

TANTIÈME

1. Tantième 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 tantième kan egter ook in die Kontrakterende Staat waarin dit ontstaan en ooreenkomstig die wette van daardie Staat belas word, maar as die voordelige eienaar van die tantième 'n inwoner van die ander Kontrakterende Staat is, mag die belasting wat aldus gehef word, nie meer as 5 persent van die bruto bedrag van die tantième wees nie.

Die bevoegde owerhede van die Kontrakterende State moet deur onderlinge ooreenkoms besluit oor die wyse van toepassing van hierdie beperking.

3. Die uitdrukking "tantième" soos dit in hierdie Artikel gebruik word, beteken betalings van enige soort wat ontvang word as vergoeding vir die gebruik, of die reg op die gebruik, van enige outeursreg op letterkundige, artistieke of wetenskaplike werk (insluitende kinematograaffilms en films, bande of skywe vir radio- of televisie-uitsending), enige patent, handelsmerk, ontwerp of model, plan, geheime formule of proses, of vir die gebruik, of die reg op die gebruik, van inligting rakende nywerheids-, handels- of wetenskaplike ondervinding.

4. Die bepalings van paragrawe 1 en 2 van hierdie Artikel is nie van toepassing nie indien die voordelige eienaar van die tantième wat 'n inwoner van 'n Kontrakterende Staat is, in die ander Kontrakterende Staat waarin die tantième ontstaan, besigheid dryf deur middel van 'n permanente saak wat daarin geleë is, en die reg of eiendom ten opsigte waarvan die tantième betaal word, effektief aan sodanige permanente saak verbonde is. In so 'n geval is die bepalings van Artikel 7 van toepassing.

5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether that person is a resident of a Contracting State or not, has in a Contracting State a permanent establishment 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, then such royalties shall be deemed to arise in the State in which the permanent establishment is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties paid, 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.

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, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.

3. Gains of an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic, or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.

4. Gains derived by a resident of a Contracting State from the alienation of shares deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.

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

5. Tantième word geag in 'n Kontrakterende Staat te ontstaan wanneer die betaler 'n inwoner van daardie Staat is. Waar die persoon wat die tantième betaal, hetsy daardie persoon 'n inwoner van 'n Kontrakterende Staat is al dan nie, in 'n Kontrakterende Staat 'n permanente saak het waaraan die reg of eiendom ten opsigte waarvan die tantième betaal word, effektief verbonde is en sodanige tantième deur sodanige permanente saak gedra word, word sodanige tantième egter geag te ontstaan in die Staat waarin die permanente saak geleë is.

6. Waar, as gevolg van 'n spesiale verhouding tussen die betaler en die voordelige eienaar of tussen hulle albei en 'n ander persoon, die bedrag van die tantième, met inagneming van die gebruik, reg of inligting waarvoor dit betaal word, meer is as die bedrag waarop die betaler en die voordelige eienaar sou ooreengekom het by ontstentenis van so 'n verhouding, is die bepaling van hierdie Artikel net op laasgenoemde bedrag van toepassing. In so 'n geval bly die oormaatdeel van die betalings belasbaar ooreenkomstig die wette van elk van die Kontrakterende State, met behoorlike inagneming van die ander bepaling van hierdie Ooreenkoms.

ARTIKEL 13

KAPITAALWINS

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

2. Wins 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, insluitende sodanige wins uit die vervreemding van so 'n permanente saak (alleen of met die hele onderneming), kan in daardie ander Staat belas word.

3. Wins van 'n onderneming van 'n Kontrakterende Staat uit die vervreemding van skepe of lugvaartuie wat in internasionale verkeer bedryf word of roerende eiendom wat op die bedryf van sodanige skepe of lugvaartuie betrekking het, is net in daardie Staat belasbaar.

4. Wins wat 'n inwoner van 'n Kontrakterende Staat verkry uit die vervreemding van aandele wat meer as 50 persent van hulle waarde regstreeks of onregstreeks uit onroerende eiendom geleë in die ander Kontrakterende Staat verkry, kan in daardie ander Staat belas word.

5. Wins uit die vervreemding van enige ander eiendom as dié in die voorgaande paragrawe van hierdie Artikel bedoel, is belasbaar net in die Kontrakterende Staat waarvan die vervreemder 'n inwoner is.

ARTICLE 14**INCOME FROM EMPLOYMENT**

1. Subject to the provisions of Articles 15, 17, 18 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 of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned; and
- (b) the remuneration is paid by or on behalf of an employer who is not a resident of the other State; and
- (c) the remuneration is not borne by a permanent establishment which the employer has in the other State.

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

ARTICLE 15**DIRECTORS' FEES**

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

ARTICLE 16**ENTERTAINERS AND SPORTSPERSONS**

1. Notwithstanding the provisions of Articles 7 and 14, income derived by entertainers such as theatre, motion picture, radio or television artistes, and musicians, or 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 that person's capacity as such accrues not to that entertainer or sportsperson but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

ARTIKEL 14**INKOMSTE UIT DIENSBETREKKING**

1. Behoudens die bepalings van Artikels 15, 17, 18 en 20 is salarisse, lone en ander soortgelyke besoldiging wat 'n inwoner van 'n Kontrakterende Staat ten opsigte van 'n diensbetrekking verkry, net in daardie Staat belasbaar, tensy die diensbetrekking in die ander Kontrakterende Staat uitgeoefen word. Indien die diensbetrekking aldus uitgeoefen word, kan die besoldiging wat daaruit verkry word in daardie ander Staat belas word.

2. Ondanks die bepalings van paragraaf 1 van hierdie Artikel is die besoldiging wat deur 'n inwoner van 'n Kontrakterende Staat verkry word ten opsigte van 'n diensbetrekking wat in die ander Kontrakterende Staat uitgeoefen word, net in eersgenoemde Staat belasbaar indien:

- (a) die ontvanger in die ander Staat teenwoordig is vir 'n tydperk of tydperke van hoogstens altesaam 183 dae in die betrokke kalenderjaar; en
- (b) die besoldiging betaal word deur, of namens, 'n werkgewer wat nie 'n inwoner van die ander Staat is nie; en
- (c) die besoldiging nie deur 'n permanente saak wat die werkgewer in die ander Staat het, gedra word nie.

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

ARTIKEL 15**DIREKTEURSGELDE**

Direkteursgelde en ander soortgelyke betalings wat deur 'n inwoner van 'n Kontrakterende Staat verkry word in daardie persoon se hoedanigheid as lid van die direksie van 'n maatskappy wat 'n inwoner van die ander Kontrakterende Staat is, kan in daardie ander Staat belas word.

ARTIKEL 16**VERMAAKLIKHEIDSKUNSTENAARS EN SPORTLUI**

1. Ondanks die bepalings van Artikels 7 en 14 kan die inkomste wat vermaaklikheidskunstenaars soos teater-, rolprent-, radio- of televisie-artiste, en musikante, of sportlui uit hul persoonlike bedrywighede as sodanig verkry, belas word in die Kontrakterende Staat waarin hierdie bedrywighede uitgeoefen word.

2. Waar inkomste ten opsigte van persoonlike bedrywighede wat deur 'n vermaaklikheidskunstenaar of 'n sportpersoon in daardie persoon se hoedanigheid as sodanig uitgeoefen word, nie aan die vermaaklikheidskunstenaar of sportpersoon toeval nie maar aan 'n ander persoon, kan daardie inkomste, ondanks die bepalings van Artikels 7 en 14, belas word in die Kontrakterende Staat waarin die bedrywighede van die vermaaklikheidskunstenaar of sportpersoon uitgeoefen word.

3. Income derived by a resident of a Contracting State from activities exercised in the other Contracting State as envisaged in paragraphs 1 and 2 of this Article, shall be exempt from tax in that other State if the visit to that other State is supported wholly or mainly by public funds of the first-mentioned Contracting State, a political subdivision or a local authority thereof, or takes place under a cultural agreement or arrangement between the Governments of the Contracting States.

ARTICLE 17

PENSIONS AND ANNUITIES

1. Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration, and annuities, arising in a Contracting State and paid to a resident of the other Contracting State, may be taxed in the first-mentioned State.

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

3. Notwithstanding the provisions of paragraph 1 of this Article, pensions paid and other payments made under a public scheme which is part of the social security system of a Contracting State or a political subdivision or a local authority thereof shall be taxable only in that State.

ARTICLE 18

GOVERNMENT SERVICE

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

3. Inkomste wat 'n inwoner van 'n Kontrakterende Staat verkry uit bedrywighede wat in die ander Kontrakterende Staat uitgeoefen word soos beoog in paragrawe 1 en 2 van hierdie Artikel, word vrygestel van belasting in daardie ander Staat indien die besoek aan daardie ander Staat in geheel of in hoofsaak gesteun word deur openbare fondse van eersgenoemde Kontrakterende Staat, 'n staatkundige onderverdeling of 'n plaaslike owerheid daarvan, of plaasvind kragtens 'n kulturele ooreenkoms of reëling tussen die Regerings van die Kontrakterende State.

ARTIKEL 17

PENSIOENE EN ANNUÏTEITE

1. Behoudens die bepalings van paragraaf 2 van Artikel 18 kan pensioene en ander soortgelyke besoldiging, en annuïteite, wat in 'n Kontrakterende Staat ontstaan en aan 'n inwoner van die ander Kontrakterende Staat betaal word, in eersgenoemde Staat belas word.

2. Die uitdrukking "annuïteit" soos dit in hierdie Artikel gebruik word, beteken 'n vermelde bedrag wat periodiek op vermelde tye gedurende 'n persoon se lewe of gedurende 'n gespesifiseerde of vasstelbare tydperk betaalbaar word ingevolge 'n verpligting om die betalings te doen in ruil vir voldoende en volle teenprestasie in geld of geldwaarde.

3. Ondanks die bepalings van paragraaf 1 van hierdie Artikel is pensioene en ander betalings ingevolge 'n openbare skema wat deel is van die bestaansbeveiligingstelsel van 'n Kontrakterende Staat of 'n staatkundige onderverdeling of 'n plaaslike owerheid daarvan, net in daardie Staat belasbaar.

ARTIKEL 18

REGERINGSDIENS

1. (a) Salarisse, lone en ander soortgelyke besoldiging wat deur 'n Kontrakterende Staat of 'n staatkundige onderverdeling of 'n plaaslike owerheid daarvan aan 'n individu betaal word ten opsigte van dienste gelewer aan daardie Staat of onderverdeling of owerheid, is net in daardie Staat belasbaar.
- (b) Sodanige salarisse, lone en ander soortgelyke besoldiging is egter in die ander Kontrakterende Staat belasbaar slegs as die dienste in daardie Staat gelewer word en die individu 'n inwoner van daardie Staat is wat:
 - (i) 'n burger van daardie Staat is; of
 - (ii) nie 'n inwoner van daardie Staat geword het uitsluitlik met die doel om die dienste te lewer nie.

2. (a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
 - (b) However, such pensions and other similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.
3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages, pensions and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision, local authority thereof.

ARTICLE 19

STUDENTS AND BUSINESS APPRENTICES

A student or business apprentice who is present in a Contracting State solely for the purpose of the student's 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 the student's maintenance, education or training.

ARTICLE 20

PROFESSORS AND TEACHERS

1. Notwithstanding the provisions of Article 14, a professor or teacher who makes a temporary visit to one of the Contracting States for a period not exceeding two years for the purpose of teaching or carrying out research 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 or research, be exempt from tax in the first-mentioned State.

2. The provisions of this Article shall not apply to income from research if such research is undertaken not in the public interest but wholly or mainly for the private benefit of a specific person or persons.

ARTICLE 21

OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.

2. (a) Ondanks die bepalings van paragraaf 1 is pensioene en ander soortgelyke besoldiging wat betaal word deur, of uit fondse geskep deur, 'n Kontrakterende Staat of 'n staatkundige onderverdeling of 'n plaaslike owerheid daarvan aan 'n individu ten opsigte van dienste gelewer aan daardie Staat of onderverdeling of owerheid, net in daardie Staat belasbaar.
- (b) Sodanige pensioene en ander soortgelyke besoldiging is egter slegs in die ander Kontrakterende Staat belasbaar indien die individu 'n inwoner en 'n burger van daardie Staat is.
3. Die bepalings van Artikels 14, 15, 16 en 17 is van toepassing op salarisse, lone, pensioene en ander soortgelyke besoldiging ten opsigte van dienste gelewer in verband met 'n besigheid wat gedryf word deur 'n Kontrakterende Staat of 'n staatkundige onderverdeling of 'n plaaslike owerheid daarvan.

ARTIKEL 19

STUDENTE EN BESIGHEIDSLEERLINGE

'n Student of besigheidsleerling wat in 'n Kontrakterende Staat teenwoordig is uitsluitlik vir die doel van die student se onderrig en 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 die student se onderhoud, onderrig en opleiding.

ARTIKEL 20

DOSENTE EN ONDERWYSERS

1. Ondanks die bepalings van Artikel 14 is 'n dosent of onderwyser wat een van die Kontrakterende State tydelik besoek vir 'n tydperk van hoogstens twee jaar vir die doel van onderrig of die doen van navorsing 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, ten opsigte van besoldiging vir sodanige onderrig of navorsing vrygestel van belasting in eersgenoemde Staat.

2. Die bepalings van hierdie Artikel is nie van toepassing op inkomste uit navorsing indien sodanige navorsing nie in die openbare belang gedoen word nie maar in geheel of in hoofsaak tot private voordeel van 'n bepaalde persoon of persone.

ARTIKEL 21

ANDER INKOMSTE

1. Inkomste-items van 'n inwoner van 'n Kontrakterende Staat, ongeag waar dit ontstaan, wat nie in die voorgaande Artikels van hierdie Ooreenkoms behandel word nie, is net in daardie Staat belasbaar.

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 and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case, the provisions of Article 7 shall apply.

3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of the Agreement and arising in the other Contracting State may also be taxed in that other State.

ARTICLE 22

ELIMINATION OF DOUBLE TAXATION

1. Double taxation shall be eliminated as follows:

(a) in the case of Mauritius:

- (i) subject to the provisions of the law of Mauritius regarding the allowance as a credit against Mauritius tax of tax payable in a territory outside Mauritius (which shall not affect the general principle hereof), where a resident of Mauritius derives profits or income from sources within South Africa and which, under the laws of South Africa and in accordance with this Agreement are taxable or may be taxed in South Africa, whether directly or by deduction, Mauritius shall allow the South African tax payable as a credit against any Mauritius tax computed by reference to the same profits or income by reference to which the South African tax payable is computed;
- (ii) in the case of a dividend, the credit referred to in subparagraph (a)(i) shall only take into account such tax in respect thereof as is additional to any tax payable in South Africa by the company on the profits out of which the dividend is paid and is ultimately borne by the recipient of the dividend without any reference to any tax so payable;
- (iii) where a company which is a resident of South Africa pays a dividend to a company which is a resident of Mauritius and which controls, directly or indirectly, at least 10 per cent of the capital of the company paying the dividend, the credit shall take into account (in addition to any South African tax for which credit may be allowed under the provisions of subparagraph (a)(i) of this paragraph) the South African tax payable by the first-mentioned company in respect of the profits out of which such dividend is paid;

Provided that any credit allowed under this subparagraph shall not exceed the Mauritius tax (as computed before allowing any such credit) which is appropriate to the profits or income derived from sources within South Africa;

2. Die bepalings van paragraaf 1 is nie op inkomste van toepassing nie, indien die ontvanger van sodanige inkomste wat 'n inwoner van 'n Kontrakterende Staat is, in die ander Kontrakterende Staat besigheid dryf deur middel van 'n permanente saak wat daarin geleë is, en die reg of eiendom ten opsigte waarvan die inkomste betaal word, effektief aan sodanige permanente saak verbonde is. In so 'n geval is die bepalings van Artikel 7 van toepassing.

3. Ondanks die bepalings van paragrawe 1 en 2 kan inkomste-items van 'n inwoner van 'n Kontrakterende Staat wat nie in die voorgaande Artikels van die Ooreenkoms behandel word nie en in die ander Kontrakterende Staat ontstaan, ook in daardie ander Staat belas word.

ARTIKEL 22

UITSKAKELING VAN DUBBELE BELASTING

1. Dubbele belasting word soos volg uitgeskakel:

(a) in die geval van Mauritius:

- (i) behoudens die bepalings van die reg van Mauritius met betrekking tot die toestaan as 'n krediet teen Mauritiaanse belasting van belasting betaalbaar in 'n grondgebied buite Mauritius (wat nie die algemene beginsel hiervan aantast nie), waar 'n inwoner van Mauritius wins of inkomste verkry uit bronne binne Suid-Afrika wat kragtens die reg van Suid-Afrika en ooreenkomstig hierdie Ooreenkoms in Suid-Afrika belasbaar is of belas mag word, hetsy regstreeks of by wyse van aftrekking, moet Mauritius die belasting wat in Suid-Afrika betaalbaar is toestaan as 'n krediet teen enige Mauritiaanse belasting wat bereken word met betrekking tot dieselfde wins of inkomste ten opsigte waarvan die Suid-Afrikaanse belasting betaalbaar bereken word;
- (ii) in die geval van 'n dividend, neem die krediet in subparagraaf (a)(i) bedoel net daardie belasting in berekening wat ten opsigte daarvan bykomend is by enige belasting betaalbaar in Suid-Afrika deur die maatskappy op die wins waaruit die dividend betaal word en wat uiteindelik deur die ontvanger van die dividend gedra word sonder enige verwysing na enige belasting aldus betaalbaar;
- (iii) waar 'n maatskappy wat 'n inwoner van Suid-Afrika is 'n dividend betaal aan 'n maatskappy wat 'n inwoner van Mauritius is en wat, regstreeks of onregstreeks, 10 persent of meer van die kapitaal beheer van die maatskappy wat die dividend betaal, neem die krediet in berekening (bykomend by enige Suid-Afrikaanse belasting krediteerbaar ingevolge die bepalings van subparagraaf (a)(i) van hierdie paragraaf) Suid-Afrikaanse belasting wat betaalbaar is deur eersgenoemde maatskappy ten opsigte van die wins waaruit sodanige dividend betaal word;

Met dien verstande dat enige krediet toegestaan kragtens hierdie subparagraaf nie meer is nie as die Mauritiaanse belasting (soos bereken voor die toestaan van enige sodanige krediet) wat op die wins of inkomste verkry uit bronne binne Suid-Afrika toegewys word;

- (b) in South Africa, subject to the provisions of the law of South Africa regarding the deduction from tax payable in South Africa of tax payable in any country other than South Africa (which shall not affect the general principle hereof), Mauritius tax paid by residents of South Africa in respect of income taxable in Mauritius in accordance with the provisions of this Agreement, shall be deducted from the taxes due according to South African fiscal law. Such deduction shall not, however, exceed an amount which bears to the total South African tax payable the same ratio as the income concerned bears to the total income.

2. For the purposes of allowing South African tax as a credit in terms of subparagraph (a) of paragraph 1, the tax payable in South Africa shall be deemed to include the tax which is otherwise payable in South Africa but has been reduced or waived by South Africa in order to promote economic development.

ARTICLE 23

NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, 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. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 8 of Article 11 or paragraph 6 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

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

5. Nothing contained in this Article shall prevent South Africa from imposing on the profits attributable to a permanent establishment in South Africa of a company, which is a resident of Mauritius, a tax at a rate which does not exceed the rate of normal tax on companies by more than five percentage points.

- (b) in Suid-Afrika, behoudens die bepalings van die reg van Suid-Afrika betreffende die aftrekking vanaf belasting betaalbaar in Suid-Afrika van belasting betaalbaar in enige ander land as Suid-Afrika (wat nie die algemene beginsel hiervan raak nie), word Mauritiaanse belasting betaal deur inwoners van Suid-Afrika ten opsigte van inkomste wat in Mauritius belasbaar is, ooreenkomstig die bepalings van hierdie Ooreenkoms afgetrek van die belastings wat ooreenkomstig die Suid-Afrikaanse fiskale reg verskuldig is. Sodanige aftrekking mag egter nie meer wees nie as 'n bedrag wat tot die totale Suid-Afrikaanse belasting betaalbaar in dieselfde verhouding staan as waarin die betrokke inkomste tot die totale inkomste staan.

2. Vir doeleindes van die toestaan van Suid-Afrikaanse belasting as 'n krediet ingevolge subparagraaf (a) van paragraaf 1, word die belasting betaalbaar in Suid-Afrika geag belasting in te sluit wat andersins in Suid-Afrika betaalbaar sou wees maar deur Suid-Afrika verminder of kwytgeskeld is ten einde ekonomiese ontwikkeling te bevorder.

ARTIKEL 23

NIEDISKRIMINASIE

1. Burgers van 'n Kontrakterende Staat mag nie in die ander Kontrakterende Staat onderwerp word aan enige belasting of enige vereiste in verband daarmee nie wat anders of knellender is as die belasting en verwante vereistes waaraan burgers van daardie ander Staat in dieselfde omstandighede, in die besonder met betrekking tot verblyf, onderwerp is of kan word nie. Hierdie bepaling is ondanks die bepalings van Artikel 1 ook van toepassing op persone wat nie inwoners van een van of 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, word nie in daardie ander Staat minder gunstig gehef as die belasting wat gehef word op ondernemings van daardie ander Staat wat dieselfde bedrywighede uitoefen nie. Hierdie bepaling word nie so uitgelê dat dit 'n Kontrakterende Staat verplig om aan inwoners van die ander Kontrakterende Staat enige persoonlike korting, verligting en vermindering vir belastingdoeleindes toe te staan op grond van burgerlike status of gesinsverantwoordelikhede wat hy aan sy eie inwoners toestaan nie.

3. Uitgesonderd waar die bepalings van paragraaf 1 van Artikel 9, paragraaf 8 van Artikel 11 of paragraaf 6 van Artikel 12 van toepassing is, is rente, tantième en ander betalings deur 'n onderneming van 'n Kontrakterende Staat aan 'n inwoner van die ander Kontrakterende Staat, met die doel om die belasbare wins van sodanige onderneming te bepaal, aftrekbaar op dieselfde voorwaardes asof dit aan 'n inwoner van eersgenoemde Staat betaal is.

4. Ondernemings van 'n Kontrakterende Staat, waarvan die kapitaal regstreeks of onregstreeks in geheel of gedeeltelik deur een of meer inwoners van die ander Kontrakterende Staat besit of beheer word, word nie in eersgenoemde Staat onderwerp aan enige belasting of enige vereiste in verband daarmee wat anders of knellender is as die belasting en verwante vereistes waaraan ander soortgelyke ondernemings van eersgenoemde Staat onderhewig is of kan wees nie.

5. Geen bepaling van hierdie Artikel verhinder Suid-Afrika om op die winste toeskryfbaar aan 'n permanente saak in Suid-Afrika van 'n maatskappy wat 'n inwoner van Mauritius is, 'n belasting teen 'n koers wat hoogstens vyf persentasiepunte hoër as die koers van normale belasting op maatskappye is, te hef nie.

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

ARTICLE 24

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for that person in taxation not in accordance with this Agreement, that person may, irrespective of the remedies provided by the domestic law of those States, present a case to the competent authority of the Contracting State of which the person is a resident or, if the case comes under paragraph 1 of Article 23, to that of the Contracting State of which the person is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Agreement.

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

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

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

ARTICLE 25

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions in so far as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

6. Die bepalings van hierdie Artikel is ondanks die bepalings van Artikel 2 van toepassing op belasting van elke soort en beskrywing.

ARTIKEL 24

PROSEDURE VIR ONDERLINGE OOREENKOMS

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

2. Die bevoegde owerheid moet, indien die beswaar na sy oordeel geregverdig voorkom en indien hy self nie 'n bevredigende oplossing kan kry nie, probeer om die saak by onderlinge ooreenkoms met die bevoegde owerheid van die ander Kontrakterende Staat te besleg met die oog op die vermyding van belasting wat nie in ooreenstemming met die Ooreenkoms is nie. Enige ooreenkoms wat bereik word, moet toegepas word ondanks enige tydbeperkings in die landsreg van die Kontrakterende State.

3. Die bevoegde owerhede van die Kontrakterende State moet poog om enige moeilikhede of twyfel wat oor die vertolking of toepassing van die Ooreenkoms ontstaan, deur onderlinge ooreenkoms te besleg. Hulle kan ook saam oorleg pleeg vir die uitskakeling van dubbele belasting in gevalle waarvoor hierdie Ooreenkoms nie voorsiening maak nie.

4. Die bevoegde owerhede van die Kontrakterende State kan regstreeks met mekaar kommunikeer met die doel om tot 'n ooreenkoms te kom soos in die voorgaande paragrawe beoog. Waar dit raadsaam blyk, ten einde tot 'n ooreenkoms te kom, om mondeling menings te wissel, kan sodanige meningswisseling plaasvind deur 'n kommissie bestaande uit verteenwoordigers van die bevoegde owerhede van die Kontrakterende State.

ARTIKEL 25

UITRUIL VAN INLIGTING

1. Die bevoegde owerhede van die Kontrakterende State moet inligting uitruil wat na verwagting tersaaklik is vir die uitvoering van die bepalings van hierdie Ooreenkoms of vir die administrasie of toepassing van die plaaslike wette rakende belasting van elke soort en beskrywing wat namens die Kontrakterende State of hulle staatkundige onderverdelings gehef word, in soverre die belasting daarkragtens nie strydig is nie met die Ooreenkoms. Die uitruil van inligting word nie deur Artikels 1 en 2 beperk nie.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. 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.

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

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

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

ARTICLE 26

ASSISTANCE IN COLLECTION OF TAXES

1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.

2. The term "revenue claim" as used in this Article means an amount owed in respect of taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Agreement or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.

2. Enige inligting wat ingevolge paragraaf 1 deur 'n Kontrakterende Staat ontvang word, word as geheim behandel op dieselfde wyse as inligting wat ingevolge die plaaslike wette van daardie Staat verkry is en mag slegs bekend gemaak word aan persone of owerhede (insluitende howe en administratiewe liggame) gemoeid met die aanslaan of invordering van, die afdwing of vervolging ten opsigte van, die beslissing van appèlle met betrekking tot die belastings in paragraaf 1 bedoel, of toesig oor die voorgaande. Sodanige persone of owerhede mag die inligting net vir sodanige doeleindes gebruik. Hulle mag die inligting in openbare hofverrigtinge of by regterlike besluite openbaar maak.

3. In geen geval mag die bepalings van paragraaf 1 van hierdie Artikel so uitgelê word dat dit aan 'n Kontrakterende Staat die verpligting oplê:

- (a) om administratiewe maatreëls uit te voer wat strydig is met die wette en administratiewe praktyk van daardie of van die ander Kontrakterende Staat nie;
- (b) om inligting te verskaf wat nie ingevolge die wette of in die normale loop van die administrasie van daardie of die ander Kontrakterende Staat verkrygbaar is nie;
- (c) om inligting te verstrek wat enige handels-, besigheids-, industriële, kommersiële of beroepsgeheim of handelsproses openbaar sal maak, of inligting waarvan die openbaarmaking strydig met openbare beleid (*ordre public*) sal wees nie.

4. Indien inligting in ooreenstemming met hierdie Artikel deur 'n Kontrakterende Staat aangevra word, moet die ander Kontrakterende Staat sy inligtingversamelingsmaatreëls gebruik om die verlangde inligting te verkry, selfs al het daardie ander Staat nie sodanige inligting vir sy eie belastingdoeleindes nodig nie. Die verpligting vervat in die voorgaande sin is onderhewig aan die beperkings van paragraaf 3, maar sodanige beperkings mag in geen geval so uitgelê word dat dit 'n Kontrakterende Staat in staat stel om te weier om inligting te verstrek bloot omdat hy geen plaaslike belang by sodanige inligting het nie.

5. In geen geval mag die bepalings van paragraaf 3 so uitgelê word dat dit 'n Kontrakterende Staat in staat stel om te weier om inligting te verstrek bloot omdat die inligting deur 'n bank, ander finansiële instelling, benoemde of persoon wat in 'n agentskaps- of 'n fidusiële hoedanigheid optree, gehou word of omdat dit met eienaarskapbelange in 'n persoon verband hou nie.

ARTIKEL 26

BYSTAND MET DIE INVORDERING VAN BELASTINGS

1. Die Kontrakterende State moet aan mekaar bystand verleen met die invordering van inkomste-eise. Hierdie bystand word nie deur Artikels 1 en 2 beperk nie. Die bevoegde owerhede van die Kontrakterende State kan by onderlinge ooreenkoms besluit oor die wyse van toepassing van hierdie Artikel.

2. Die uitdrukking "inkomste-eis" soos dit in hierdie Artikel gebruik word, beteken 'n bedrag wat verskuldig is ten opsigte van belastings van elke soort en beskrywing wat namens die Kontrakterende State of hulle staatkundige onderverdelings of plaaslike owerhede gehef is, in soverre die belasting daarkragtens nie strydig is nie met hierdie Ooreenkoms of enige ander instrument waarby die Kontrakterende State partye is, asook rente, administratiewe boetes en die koste van invordering of bewaring rakende sodanige bedrag.

3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State.

4. When a revenue claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned State or is owed by a person who has a right to prevent its collection.

5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Contracting State for purposes of paragraphs 3 or 4 shall not, in that State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State.

6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State.

7. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be:

- (a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, or
- (b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection.

the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the first-mentioned State shall either suspend or withdraw its request.

3. Wanneer 'n inkomste-eis van 'n Kontrakterende Staat ingevolge die wette van daardie Staat afdwingbaar is en verskuldig is deur 'n persoon wat, op daardie tydstip, ingevolge die wette van daardie Staat nie die invordering daarvan kan voorkom nie, moet daardie inkomste-eis, op versoek van die bevoegde owerheid van daardie Staat, vir doeleindes van invordering aanvaar word deur die bevoegde owerheid van die ander Kontrakterende Staat. Daardie inkomste-eis moet deur daardie ander Staat ingevorder word in ooreenstemming met die bepalings van sy wette van toepassing op die afdwinging en invordering van sy eie belastings asof die inkomste-eis 'n inkomste-eis van daardie ander Staat is.

4. Wanneer 'n inkomste-eis van 'n Kontrakterende Staat 'n eis is ten opsigte waarvan daardie Staat ingevolge sy reg bewaringsmaatreëls kan tref om die invordering daarvan te verseker, moet daardie inkomste-eis op versoek van die bevoegde owerheid van daardie Staat aanvaar word met die doel om bewaringsmaatreëls te tref deur die bevoegde owerheid van die ander Kontrakterende Staat. Daardie ander Staat moet bewaringsmaatreëls ten opsigte van daardie inkomste-eis tref in ooreenstemming met die bepalings van sy wette asof die inkomste-eis 'n inkomste-eis van daardie ander Staat is selfs al is die inkomste-eis, op die tydstip wanneer sodanige maatreëls toegepas word, nie in eersgenoemde Staat afdwingbaar nie of al is dit verskuldig deur 'n persoon wat 'n reg het om die invordering daarvan te voorkom.

5. Ondanks die bepalings van paragrawe 3 en 4 mag 'n inkomste-eis wat vir doeleindes van paragraaf 3 of 4 deur 'n Kontrakterende Staat aanvaar is, nie in daardie Staat aan die tydsbeperkings onderhewig wees of mag daar nie daaraan enige prioriteit verleen word wat van toepassing is op 'n inkomste-eis ingevolge die wette van daardie Staat as gevolg van sy aard as sodanig nie. Voorts mag 'n inkomste-eis wat vir doeleindes van paragraaf 3 of 4 deur 'n Kontrakterende Staat aanvaar is, nie in daardie Staat enige prioriteit hê wat ingevolge die wette van die ander Kontrakterende Staat op daardie inkomste-eis van toepassing is nie.

6. Verrigtinge met betrekking tot die bestaan, geldigheid of bedrag van 'n inkomste-eis van 'n Kontrakterende Staat mag nie voor die howe of administratiewe liggame van die ander Kontrakterende Staat gebring word nie.

7. Waar, te eniger tyd nadat 'n versoek ingevolge paragraaf 3 of 4 deur 'n Kontrakterende Staat gerig is en voordat die ander Kontrakterende Staat die betrokke inkomste-eis ingevorder en aan eersgenoemde Staat oorbetaal het, die betrokke inkomste-eis:

- (a) in die geval van 'n versoek ingevolge paragraaf 3, ophou om 'n inkomste-eis van eersgenoemde Staat te wees wat ingevolge die wette van daardie Staat afdwingbaar is en verskuldig is deur 'n persoon wat, op daardie tydstip, nie ingevolge die wette van daardie Staat die invordering daarvan kan voorkom nie, of
- (b) in die geval van 'n versoek ingevolge paragraaf 4, ophou om 'n inkomste-eis van eersgenoemde Staat te wees ten opsigte waarvan daardie Staat ingevolge sy wette bewaringsmaatreëls kan tref om die invordering daarvan te verseker,

moet die bevoegde owerheid van eersgenoemde Staat die bevoegde owerheid van die ander Staat onverwyld in kennis stel van daardie feit, en volgens die keuse van die ander Staat moet eersgenoemde Staat sy versoek óf opskort óf terugtrek.

8. In no case shall the provisions of this Article be construed so as to impose on a Contracting State the obligation:

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- (b) to carry out measures which would be contrary to public policy (*ordre public*);
- (c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice;
- (d) to provide assistance in those cases where the administrative burden of that State is clearly disproportionate to the benefit to be derived by the other Contracting State.

ARTICLE 27

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.

ARTICLE 28

ENTRY INTO FORCE

1. Each of the Contracting States shall notify to the other in writing, through the diplomatic channel, of the completion of the procedures required by its legislation for the entry into force of this Agreement. The Agreement shall enter into force on the date of receipt of the later of these notifications.

2. The provisions of the Agreement shall have effect:

- (a) in Mauritius, on income for any income year beginning on or after the first day of January next following the date upon which the Agreement enters into force; and
- (b) in South Africa:
 - (i) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of January next following the date upon which the Agreement enters into force; and
 - (ii) with regard to other taxes, in respect of taxable years beginning on or after the first day of January next following the date upon which the Agreement enters into force.

8. In geen geval mag die bepalings van hierdie Artikel so uitgelê word dat dit aan 'n Kontrakterende Staat die verpligting oplê:

- (a) om administratiewe maatreëls uit te voer wat strydig is met die wette en administratiewe praktyk van daardie of van die ander Kontrakterende Staat nie;
- (b) om maatreëls uit te voer wat strydig met openbare beleid (*ordre public*) sal wees nie;
- (c) om bystand te verleen as die ander Kontrakterende Staat nie alle redelike maatreëls vir invordering of bewaring, na gelang van die geval, wat ingevolge sy wette of administratiewe praktyk beskikbaar is, getref het nie;
- (d) om bystand te verleen in gevalle waar die administratiewe las vir daardie Staat klaarblyklik buite verhouding is tot die voordeel wat die ander Kontrakterende Staat kan kry nie.

ARTIKEL 27

LEDE VAN DIPLOMATIEKE MISSIES EN KONSULÊRE POSTE

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

ARTIKEL 28

INWERKINGTREDING

1. Elk van die Kontrakterende State stel die ander skriftelik in kennis, deur middel van die diplomatieke kanaal, van die voltooiing van die prosedures wat ingevolge sy reg vir die inwerkingtreding van hierdie Ooreenkoms vereis word. Die Ooreenkoms tree in werking op die datum van ontvangs van die laaste van hierdie kennisgewings.

2. Die bepalings van die Ooreenkoms is van toepassing:

- (a) in Mauritius, op inkomste ten opsigte van enige inkomstejaar beginnende op of na die eerste dag van Januarie wat eerste volg op die datum waarop die Ooreenkoms van krag word; en
- (b) in Suid-Afrika:
 - (i) met betrekking tot belastings wat by die bron teruggehou word, ten opsigte van bedrae betaal of gekrediteer op of na die eerste dag van Januarie wat eerste volg op die datum waarop die Ooreenkoms van krag word; en
 - (ii) met betrekking tot ander belastings, ten opsigte van jare van aanslag beginnende op of na die eerste dag van Januarie wat eerste volg op die datum waarop die Ooreenkoms van krag word.

3. Agreement between the Government of the Republic of Mauritius and the Government of the Republic of South Africa for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at Pretoria on 5 July 1996, shall be terminated with effect from the date of entry into force of this Agreement and shall cease to have effect for any period thereafter for which the provisions of this Agreement shall apply.

ARTICLE 29

TERMINATION

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

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

- (a) in Mauritius, on income for any income year beginning on or after the first day of January next following the calendar year in which such notice is given; and
- (b) in South Africa:
 - (i) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of January next following the calendar year in which such notice is given; and
 - (ii) with regard to other taxes, in respect of taxable years beginning on or after the first day of January next following the calendar year in which such notice is given.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement in two originals, in the English language.

DONE at Maputo, on this 17th day of May in the year 2013.

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

**FOR THE GOVERNMENT OF THE
REPUBLIC OF MAURITIUS**

3. Die Ooreenkoms tussen die Regering van die Republiek van Mauritius en die Regering van die Republiek van Suid-Afrika ter vermyding van dubbele belasting en ter voorkoming van fiskale ontduiking met betrekking tot belastings op inkomste, geteken te Pretoria op 5 Julie 1996, word opgesê met ingang van die inwerkingtreding van hierdie Ooreenkoms en hou op om van toepassing te wees vir enige tydperk daarna ten opsigte waarvan die bepalings van hierdie Ooreenkoms van toepassing is.

ARTIKEL 29

OPSEGGING

1. Hierdie Ooreenkoms bly onbepaald van krag, maar enigeen van die Kontrakterende State kan die Ooreenkoms deur middel van die diplomatieke kanaal opsê deur aan die ander Kontrakterende Staat skriftelik kennis van opsegging te gee nie later nie as 30 Junie van enige kalenderjaar wat begin vyf jaar na die jaar waarin die Ooreenkoms in werking getree het.

2. In so 'n geval hou die Ooreenkoms op om van toepassing te wees:

- (a) in Mauritius, op inkomste ten opsigte van enige inkomstejaar beginnende op of na die eerste dag van Januarie wat eerste volg op die kalenderjaar waarin sodanige kennis gegee is; en
- (b) in Suid-Afrika:
 - (i) met betrekking tot belastings wat by die bron teruggehou word, ten opsigte van bedrae betaal of gekrediteer op of na die eerste dag van Januarie wat eerste volg op die kalenderjaar waarin sodanige kennis gegee is; en
 - (ii) met betrekking tot ander belastings, ten opsigte van jare van aanslag beginnende op of na die eerste dag van Januarie wat eerste volg op die kalenderjaar waarin sodanige kennis gegee is.

TEN BEWYSE WAARVAN die ondergetekendes, behoorlik daartoe gemagtig deur hulle onderskeie Regerings, hierdie Ooreenkoms geteken het in twee oorspronklike tekste in die Engelse taal.

GEDOEN te Maputo, op hede die 17^{de} dag van Mei in die jaar 2013.

**VIR DIE REGERING VAN DIE
REPUBLIC VAN SUID-AFRIKA**

**VIR DIE REGERING VAN DIE
REPUBLIC VAN MAURITIUS**

PROTOCOL

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

1. If, in an agreement for the avoidance of double taxation that may subsequently be concluded between South Africa and a third State, the rates for taxation of dividends in the source State are lower than those specified in subparagraphs 2 (a) and (b) of Article 10, South Africa shall immediately inform the Government of Mauritius in writing through the diplomatic channel and shall promptly enter into negotiations with the Government of Mauritius with a view to providing comparable treatment as may be provided for the third State.

2. With reference to Article 23, paragraph 5, it is understood that should South Africa abolish the secondary tax on companies without replacing it with a similar tax, the provisions of that paragraph shall cease to have effect from the date on which the secondary tax on companies is abolished.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Protocol in two originals, in the English language.

DONE at Maputo on this 17th day of May in the year 2013.

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

**FOR THE GOVERNMENT OF THE
REPUBLIC OF MAURITIUS**

PROTOKOL

By die ondertekening van die Ooreenkoms aangegaan tussen die Regering van die Republiek van Suid-Afrika en die Regering van die Republiek van Mauritius ter vermyding van dubbele belasting en ter voorkoming van fiskale ontduiking met betrekking tot belasting op inkomste, het die ondergetekendes ooreengekom dat die volgende bepalings 'n integreerende deel van die vermelde Ooreenkoms vorm:

1. Indien, in 'n ooreenkoms ter vermyding van dubbele belasting wat later aangegaan is tussen Suid-Afrika en 'n derde Staat, die koerse ten opsigte van die belasting van dividende in die Bronstaat laer is as daardie vermeld in subparagraawe 2(a) en (b) van Artikel 10, moet Suid-Afrika die Regering van Mauritius skriftelik langs die diplomatieke kanaal onmiddellik daarvan verwittig en onverwyld met die Regering van Mauritius in onderhandeling tree met die oog daarop om vergelykbare behandeling soos aan die derde Staat te verskaf.

2. Met betrekking tot Artikel 23, paragraaf 5, word verstaan dat sou Suid-Afrika die sekondêre belasting op maatskappye afskaf sonder om dit deur 'n soortgelyke belasting te vervang, die bepalings van daardie paragraaf ophou om van toepassing te wees vanaf die datum waarop die sekondêre belasting op maatskappye afgeskaf is.

TEN BEWYSE WAARVAN die ondergetekendes, synde behoorlik daartoe gemagtig deur hulle onderskeie Regerings, hierdie Protokol onderteken het in twee oorspronklike tekste in die Engelse taal.

GEDOEN te Maputo, op hede die 17^{de} dag van Mei in die jaar 2013.

**VIR DIE REGERING VAN DIE
REPUBLIC VAN SUID-AFRIKA**

**VIR DIE REGERING VAN DIE
REPUBLIC VAN MAURITIUS**

IMPORTANT

Information

from Government Printing Works

Dear Valued Customers,

Government Printing Works has implemented rules for completing and submitting the electronic Adobe Forms when you, the customer, submits your notice request.

Please take note of these guidelines when completing your form.



GPW Business Rules

1. No hand written notices will be accepted for processing, this includes Adobe forms which have been completed by hand.
2. Notices can only be submitted in Adobe electronic form format to the email submission address submit.egazette@gpw.gov.za. This means that any notice submissions not on an Adobe electronic form that are submitted to this mailbox will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
3. Notices brought into GPW by "walk-in" customers on electronic media can only be submitted in Adobe electronic form format. This means that any notice submissions not on an Adobe electronic form that are submitted by the customer on electronic media will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
4. All customers who walk in to GPW that wish to submit a notice that is not on an electronic Adobe form will be routed to the Contact Centre where the customer will be taken through the completion of the form by a GPW representative. Where a customer walks into GPW with a stack of hard copy notices delivered by a messenger on behalf of a newspaper the messenger must be referred back to the sender as the submission does not adhere to the submission rules.
5. All notice submissions that do not comply with point 2 will be charged full price for the notice submission.
6. The current cut-off of all Gazette's remains unchanged for all channels. (Refer to the GPW website for submission deadlines – www.gpwonline.co.za)
7. Incorrectly completed forms and notices submitted in the wrong format will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email info.egazette@gpw.gov.za)
8. All re-submissions by customers will be subject to the above cut-off times.
9. All submissions and re-submissions that miss the cut-off will be rejected to the customer to be submitted with a new publication date.
10. Information on forms will be taken as the primary source of the notice to be published. Any instructions that are on the email body or covering letter that contradicts the notice form content will be ignored.

You are therefore advised that effective from **Monday, 18 May 2015** should you not comply with our new rules of engagement, all notice requests will be rejected by our new system.

Furthermore, the fax number **012- 748 6030** will also be **discontinued** from this date and customers will only be able to submit notice requests through the email address submit.egazette@gpw.gov.za.



Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
 Publications: Tel: (012) 748 6052, 748 6053, 748 6058
 Advertisements: Tel: (012) 748 6205, 748 6208, 748 6209, 748 6210, 748 6211
 Subscriptions: Tel: (012) 748 6054, 748 6055, 748 6057

Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaatsak X85, Pretoria, 0001
 Publikasies: Tel: (012) 748 6052, 748 6053, 748 6058
 Advertensies: Tel: (012) 748 6205, 748 6208, 748 6209, 748 6210, 748 6211
 Subskripsies: Tel: (012) 748 6054, 748 6055, 748 6057