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OF
SOUTH AFRICA



REPUBLIEK
VAN
SUID-AFRIKA

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GOVERNMENT NOTICE

DEPARTMENT OF FINANCE

No. 14

26 January 1996

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

GOEWERMENTSKENNISGEWING

DEPARTEMENT VAN FINANSIES

No. 14

26 Januarie 1996

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

CONVENTION BETWEEN THE REPUBLIC OF SOUTH AFRICA AND THE REPUBLIC OF KOREA 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 Korea desiring to promote and strengthen the economic relations between the two countries,

Have agreed as follows:

Article 1

Personal Scope

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

Article 2

Taxes Covered

1. The existing taxes to which this Convention shall apply are:

(a) in Korea:

- (i) the income tax;
- (ii) the corporation tax; and
- (iii) the special tax for rural development;

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

(b) in South Africa:

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

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

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

**KONVENSIË TUSSEN DIE REPUBLIEK VAN SUID-AFRIKA EN DIE REPUBLIEK VAN KOREA VIR DIE
VERMYDING VAN DUBBELE BELASTING EN DIE VOORKOMING VAN FISKALE ONTDUIKING MET
BETREKKING TOT BELASTINGS OP INKOMSTE**

Aanhef

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

Soos volg ooreengekom:

Artikel 1

Persoonlike Omvang

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

Artikel 2

Belastings Gedek

1. Die bestaande belastings waarop hierdie Konvensie van toepassing is, is:

(a) in Korea:

- (i) die inkomstebelasting;
- (ii) die korporasiebelasting; en
- (iii) die spesiale belasting vir landelike ontwikkeling;

(hierna "Koreaanse belasting" genoem);

(b) in Suid-Afrika:

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

(hierna "Suid-Afrikaanse belasting" genoem).

2. Die Konvensie is ook van toepassing op enige identiese of wesenlik soortgelyke belastings wat bykomend by of in plaas van die bestaande belastings opgelê word na die datum van ondertekening van die Konvensie. Die bevoegde owerhede van die Kontrakterende State stel mekaar in kennis van enige wesenlike veranderinge wat aan hul onderskeie belastingwette aangebring is.

Article 3**General Definitions**

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

- (a) the term "Korea" means the territory of the Republic of Korea including any area adjacent to the territorial sea of the Republic of Korea which, in accordance with international law, has been or may hereafter be designated under the laws of the Republic of Korea as an area within which the sovereign rights of the Republic of Korea with respect to 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 Korea or South Africa, as the context requires;
- (d) the term "tax" means Korean tax or South African tax, as the context requires;
- (e) the term "person" includes an individual, a company and any other body of persons which is treated as an entity for tax purposes;
- (f) the term "company" means any body corporate or any entity which is treated as a company or body corporate for tax purposes;
- (g) 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;
- (h) the term "national" means:
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;
- (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; and
- (j) the term "competent authority" means:
 - (i) in Korea, the Minister of Finance and Economy or his authorised representative; and
 - (ii) in South Africa, the Commissioner for Inland Revenue or his authorised representative.

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

Article 4**Resident**

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

- (a) in the case of Korea, any person who, under the laws of Korea, is liable to tax therein by reason of his domicile, residence, place of head or main office, place of management or any other criterion of a similar nature, but this term does not include any person who is liable to tax in Korea in respect only of income from sources in Korea; and

Artikel 3***Algemene Woordskrywings***

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

- (a) beteken die uitdrukking "Korea", die gebied van die Republiek van Korea, insluitende enige deel aangrensend aan die territoriale waters van die Republiek van Korea wat, ooreenkomstig die volkereg, aangewys is of hierna aangewys kan word ingevolge die wette van die Republiek van Korea as 'n deel waarbinne die Republiek van Korea ten opsigte van die seebodem en ondergrond en hulle natuurlike hulpbronne soewereine regte kan uitoefen;
- (b) beteken die uitdrukking "Suid-Afrika" die Republiek van Suid-Afrika en, wanneer in geografiese verband gebruik, ook die territoriale waters daarvan, asook enige deel buite die territoriale waters, met inbegrip van die kontinentale plat, wat ingevolge die reg van Suid-Afrika en ooreenkomstig die volkereg aangewys is of hierna aangewys kan word as 'n deel waarbinne Suid-Afrika soewereine regte of jurisdiksie kan uitoefen;
- (c) beteken die uitdrukking "n Kontrakterende Staat" en "die ander Kontrakterende Staat" Korea of Suid-Afrika, na gelang die samehang vereis;
- (d) beteken die uitdrukking "belasting" Koreaanse of Suid-Afrikaanse belasting, na gelang die samehang vereis;
- (e) sluit die uitdrukking "persoon" ook 'n individu, 'n maatskappy en enige ander liggaam van persone wat vir belastingdoeleindes as 'n entiteit beskou word in;
- (f) beteken die uitdrukking "maatskappy" enige regspersoon of enige entiteit wat vir belastingdoeleindes as 'n maatskappy of regspersoon behandel word;
- (g) beteken die uitdrukking "onderneming van 'n Kontrakterende Staat" en "onderneming van die ander Kontrakterende Staat" onderskeidelik 'n onderneming bedryf deur 'n inwoner van 'n Kontrakterende Staat en 'n onderneming bedryf deur 'n inwoner van die ander Kontrakterende Staat;
- (h) beteken die uitdrukking "burger":
 - (i) enige individu wat die burgerskap van 'n Kontrakterende Staat besit;
 - (ii) enige regspersoon, vennootskap of vereniging wat sy status as sodanig verkry van die wette wat in 'n Kontrakterende Staat van krag is;
- (i) beteken die uitdrukking "internasionale verkeer" enige vervoer per skip of vliegtuig bedryf deur 'n onderneming van 'n Kontrakterende Staat, behalwe wanneer die skip of vliegtuig slegs tussen plekke in die ander Kontrakterende Staat bedryf word; en
- (j) beteken die uitdrukking "bevoegde owerheid":
 - (i) in Korea, die Minister van Finansies en Ekonomie of sy gemagtigde verteenwoordiger; en
 - (ii) in Suid-Afrika, die Kommissaris van Binnelandse Inkomste of sy gemagtigde verteenwoordiger;

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

Artikel 4***Inwoner***

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

- (a) in die geval van Korea, enige persoon wat kragtens die wette van Korea daarin belastingpligtig is uit hoofde van sy domisilie, verblyf, plek van hoof- of vernaamste kantoor, plek van bestuur of enige ander soortgelyke maatstaf, maar hierdie uitdrukking sluit nie 'n persoon in wat in Korea belastingpligtig is slegs ten opsigte van inkomste verkry uit bronne in Korea nie; en

- (b) in the case of South Africa, any individual who is ordinarily resident in South Africa and any other person which has its place of effective management in South Africa.

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

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

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

Article 5

Permanent Establishment

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

2. The term "permanent establishment" includes especially:

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

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

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

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

- (b) in die geval van Suid-Afrika, enige individu wat gewoonlik in Suid-Afrika woonagtig is en enige ander persoon wat sy plek van effektiewe bestuur in Suid-Afrika het.

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

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

3. Waar uit hoofde van die bepalings van paragraaf 1 'n ander persoon as 'n individu 'n inwoner van beide Kontrakterende State is, word hy geag 'n inwoner te wees van die Staat waarin sy plek van effektiewe bestuur geleë is. In die geval van twyfel besleg die bevoegde owerhede van die Kontrakterende State die saak deur middel van onderlinge ooreenkoms.

Artikel 5

Permanente Saak

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

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

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

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

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

- (a) die gebruik van fasiliteite slegs met die doel om goedere of handelware wat aan die onderneming behoort op te berg, te vertoon of af te lewer;
- (b) die instandhouding van 'n voorraad goedere of handelware wat aan die onderneming behoort, slegs met die doel om dit op te berg, te vertoon of af te lewer;
- (c) die instandhouding van 'n voorraad goedere of handelware wat aan die onderneming behoort, slegs vir die doel van verwerking deur 'n ander onderneming;
- (d) die instandhouding van 'n vaste besigheidsplek slegs met die doel om vir die onderneming goedere of handelware aan te koop of inligting in te win;
- (e) die instandhouding van 'n vaste besigheidsplek slegs met die doel om enige ander bedrywigheid wat van 'n voorlopige of bykomstige aard is, vir die onderneming te beoefen; en

- (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.

Article 6

Income from Immovable Property

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

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

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

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

Article 7

Business Profits

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

- (f) die instandhouding van 'n vaste besigheidsplek slegs vir 'n kombinasie van die bedrywighede in subparagraawe (a) tot (e) genoem, met dien verstande dat die algehele bedrywigheid van die vaste besigheidsplek voortspruitend uit hierdie kombinasie van 'n voorlopige of bykomstige aard is.

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

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

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

Artikel 6

Inkomste uit Onroerende Eiendom

1. Inkomste verkry deur 'n inwoner van 'n Kontrakterende Staat uit onroerende eiendom (met inbegrip van inkomste uit landbou of bosbou) wat in die ander Kontrakterende Staat geleë is, kan in daardie ander Staat belas word.

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

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

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

Artikel 7

Besigheidswinste

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

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

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

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

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

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

Article 8

Shipping and Air Transport

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

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

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

if 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,

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

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

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

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

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

Artikel 8

Skeepvaart en Lugvervoer

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

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

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

indien sodanige verhuring of gebruik bykomstig is tot die bedryf van skepe of vliegtuie in internasionale verkeer.

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

Artikel 9

Verwante Ondernemings

1. Waar:

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

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

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

Article 10

Dividends

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

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

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

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

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

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

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

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

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

Artikel 10

Dividende

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

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

- (a) 5 persent van die bruto bedrag van die dividende indien die bevoordeelde eienaar 'n maatskappy is wat regstreeks minstens 25 persent hou van die kapitaal van die maatskappy wat die dividende betaal; of
- (b) 15 persent van die bruto bedrag van die dividende in alle ander gevalle.

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

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

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

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

Article 11***Interest***

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2:
 - (a) interest arising in a Contracting State and paid to the Government of the other Contracting State shall be exempt from tax in the first-mentioned State;
 - (b) interest paid in connection with the sale on credit of any industrial, commercial or scientific equipment, or paid in connection with the sale on credit of any merchandise by one enterprise to another enterprise shall be taxable only in the Contracting State of which the beneficiary is a resident.
4. For the purposes of paragraph 3(a), the term "Government" includes:
 - (a) the Bank of Korea, the Korea Export-Import Bank, the Korea Development Bank and the South African Reserve Bank;
 - (b) the political subdivisions and local authorities of the Contracting States; and
 - (c) such institutions, at least 80 per cent of whose capital is owned by the Government of either Contracting State or a political subdivision or local authority thereof, as may be agreed from time to time 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.
6. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.
7. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
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 case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Artikel 11**Rente**

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

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

3. Ondanks die bepalings van paragraaf 2:

- (a) is rente wat in 'n Kontrakterende Staat ontstaan en aan die Regering van die ander Kontrakterende Staat betaal word vrygestel van belasting in eersgenoemde Staat;
- (b) is rente betaal in verband met die verkoop op krediet van enige industriële, handels- of wetenskaplike toerusting, of betaal in verband met die verkoop op krediet van enige goedere deur een onderneming aan 'n ander onderneming, slegs in die Kontrakterende Staat waarvan die begunstigde 'n inwoner is, belasbaar.

4. Vir doeleindes van paragraaf 3(a), sluit die uitdrukking "Regering" in:

- (a) die Bank van Korea, die Koreaanse Uitvoer- en Invoerbank, die Koreaanse Ontwikkelingsbank en die Suid-Afrikaanse Reserwebank;
- (b) die staatkundige onderverdelings en die plaaslike owerhede van die Kontrakterende State; en
- (c) sodanige inrigtings, waarvan minstens 80 persent van die kapitaal besit word deur die Regering van een van die Kontrakterende State of 'n staatkundige onderverdeling of plaaslike owerheid daarvan, soos van tyd tot tyd deur die bevoegde owerhede van die Kontrakterende State ooreengekom kan word.

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

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

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

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

Article 12***Royalties***

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

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

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

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

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

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

Article 13***Capital Gains***

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

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

3. Gains derived by 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.

Artikel 12***Tantièmes***

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

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

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

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

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

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

Artikel 13***Kapitaalwinste***

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

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

3. Winste verkry deur 'n onderneming van 'n Kontrakterende Staat uit die vervreemding van skepe of vliegtuie wat in internasionale verkeer bedryf word, of roerende eiendom wat betrekking het op die bedryf van sodanige skepe of vliegtuie, is slegs in daardie Staat belasbaar.

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

Article 14

Independent Personal Services

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

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

Article 15

Dependent Personal Services

1. Subject to the provisions of Articles 16, 18, 19 and 21, salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

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

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

Article 16

Directors' Fees

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

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

Artikel 14

Onafhanklike Persoonlike Dienste

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

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

Artikel 15

Afhanklike Persoonlike Dienste

1. Behoudens die bepalings van Artikels 16, 18, 19 en 21 is salarisse, lone en soortgelyke besoldiging wat deur 'n inwoner van 'n Kontrakterende Staat ten opsigte van 'n diensbetrekking verkry word, slegs in daardie Staat belasbaar, tensy die diensbetrekking in die ander Kontrakterende Staat beoefen word. Indien die diensbetrekking aldus beoefen word, kan sodanige besoldiging as wat daaruit verkry word in daardie ander Staat belas word.

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

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

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

Artikel 16

Direkteursgelde

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

Article 17***Entertainers and Sportsmen***

1. Notwithstanding the provisions of Articles 7, 14 and 15, income derived by a resident of a Contracting State as an entertainer such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. Income derived by a resident of a Contracting State from activities exercised in 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 either Contracting State, a political subdivision or a local authority thereof, or takes place under a special programme of cultural exchange agreed upon between the Governments of both Contracting States.

Article 18***Pensions and Annuities***

1. Subject to the provisions of paragraph 2 of Article 19, pensions and 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" 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.

Article 19***Government Service***

1. (a) Salaries, wages and similar remuneration, other than a pension, paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such salaries, wages and similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

- (i) is a national of that State; or
- (ii) did not become a resident of that State solely for the purpose of rendering the services.

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

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

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

Artikel 17***Verhoogkunstenaars en Sportlui***

1. Ondanks die bepalings van Artikels 7, 14 en 15, kan inkomste verkry deur 'n inwoner van 'n Kontrakterende Staat as 'n verhoogkunstenaar, soos 'n teater-, rolprent-, radio- of televisie-arties of 'n musikant, of as 'n sportman, uit sy persoonlike bedrywighede as sodanig wat in die ander Kontrakterende Staat beoefen word, in daardie ander Staat belas word.

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

3. Inkomste verkry deur 'n inwoner van 'n Kontrakterende Staat uit bedrywighede beoefen in die ander Kontrakterende State soos beoog in paragrawe 1 en 2 van hierdie Artikel, is vrygestel van belasting in daardie ander Staat indien die besoek aan daardie ander Staat geheel en al of hoofsaaklik deur staatsgelde van enigeen van die Kontrakterende State, 'n staatkundige onderverdeling of 'n plaaslike owerheid daarvan ondersteun word, of onder 'n spesiale program van kulturele uitruiling ooreengekom tussen die Regerings van beide Kontrakterende State, plaasvind.

Artikel 18***Pensioene en Annuïteite***

1. Behoudens die bepalings van paragraaf 2 van Artikel 19, kan pensioene en 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" beteken 'n vermelde bedrag wat periodiek op vermelde tye gedurende lewe of gedurende 'n gespesifiseerde of vasstelbare tydperk betaalbaar is ingevolge 'n verpligting om die betalings te doen in ruil vir voldoende en volle vergoeding in geld of geldwaarde.

Artikel 19***Regeringsdiens***

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

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

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

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

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

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

4. The provisions of paragraphs 1 and 2 shall also apply in respect of salaries, wages and similar remuneration, and pensions, paid by the Bank of Korea, the Korea Export-Import Bank, the Korea Development Bank, the Korea Trade Promotion Corporation, the South African Reserve Bank and any other institution performing functions of a governmental nature as may be specified and agreed upon in letters exchanged between the competent authorities of the Contracting States.

Article 20

Students, Apprentices and Business Trainees

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

Article 21

Professors and Researchers

1. An individual who visits a Contracting State at the invitation of any university, college, school or similar institution, which is recognised as non-profitable by the Government of that State, solely for the purpose of teaching or carrying out research at such institution and who is, or immediately before making such visit was, a resident of the other Contracting State, shall be exempt from tax in the first-mentioned State on remuneration for such teaching or research for a period not exceeding two years from the date of his first arrival in that State.

2. The provisions of paragraph 1 of this Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

Article 22

Other Income

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

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

4. Die bepalings van paragrafe 1 en 2 is ook van toepassing ten opsigte van salarisse, lone en soortgelyke besoldiging, en pensioene, betaal deur die Bank van Korea, die Koreaanse Uitvoer- en Invoerbank, die Koreaanse Ontwikkelingsbank, die Koreaanse Handelsbevorderingskorporasie, die Suid-Afrikaanse Reserwebank en enige ander instelling wat funksies uitvoer van 'n regeringsaard soos wat gespesifiseer en ooreengekom kan word in briefwisseling tussen die bevoegde owerhede van die Kontrakterende State.

Artikel 20

Studente, Vakleerlinge en Besigheidsvakleerlinge

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

Artikel 21

Professore en Navorsers

1. 'n Individu wat 'n Kontrakterende Staat besoek op uitnodiging van enige universiteit, kollege, skool of soortgelyke instelling wat deur die Regering van daardie Staat as nie-winsgewend erken word, slegs vir die doel van opleiding of die uitvoer van navorsing by sodanige instelling en wat 'n inwoner is, of onmiddellik voor sodanige besoek 'n inwoner was, van die ander Kontrakterende Staat, is in eersgenoemde Staat vrygestel van belasting op besoldiging vir sodanige onderwys of navorsing vir 'n tydperk wat nie twee jare vanaf die datum van sy eerste aankoms in daardie Staat te bowe gaan nie.

2. Die bepalings van paragraaf 1 van hierdie Artikel is nie van toepassing nie op inkomste uit navorsing indien sodanige navorsing nie in die openbare belang onderneem word nie maar hoofsaaklik vir die private voordeel van 'n spesifieke persoon of persone.

Artikel 22

Ander Inkomste

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

2. Die bepalings van paragraaf 1 is nie van toepassing op inkomste nie, behalwe inkomste uit onroerende eiendom soos in paragraaf 2 van Artikel 6 omskryf, indien die ontvanger van sodanige inkomste, synde 'n inwoner van 'n Kontrakterende Staat, in die ander Kontrakterende Staat besigheid dryf deur 'n permanente saak daarin geleë, of in daardie ander Staat onafhanklike persoonlike dienste verrig vanaf 'n vaste basis daarin geleë en die reg of eiendom ten opsigte waarvan die inkomste betaal word, effektief verbonde is met sodanige permanente saak of vaste basis. In sodanige geval is die bepalings van Artikel 7 of Artikel 14, na gelang van die geval, van toepassing.

Article 23***Elimination of Double Taxation***

Double taxation shall be eliminated as follows:

(a) In Korea, subject to the provisions of Korean tax law regarding the allowance as a credit against Korean tax of tax payable in any country other than Korea, which shall not affect the general principle hereof, the South African tax payable (excluding, in the case of dividends, tax payable in respect of profits out of which the dividends are paid) under the laws of South Africa and in accordance with this Convention, whether directly or by deduction, in respect of income from sources within South Africa shall be allowed as a credit against the Korean tax payable in respect of that income. The credit shall not, however, exceed that proportion of the Korean tax which the income from sources within South Africa bears to the entire income subject to Korean tax;

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

Article 24***Non-discrimination***

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

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

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

4. Except where the provisions of paragraph 1 of Article 9, paragraph 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.

5. Nothing in this Article shall be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

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

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

Dubbele belasting word soos volg uitgeskakel:

(a) In Korea, behoudens die bepalinge van die Koreaanse belastingreg met betrekking tot die toestaan van 'n krediet teen Koreaanse belasting van belasting betaalbaar in enige land uitgesonderd Korea, wat nie die algemene beginsel hiervan raak nie, word die Suid-Afrikaanse belasting betaalbaar (uitgesluit, in die geval van dividende, belasting betaalbaar ten opsigte van winste waaruit die dividende betaal word) volgens die wette van Suid-Afrika en in ooreenstemming met hierdie Konvensie, hetsy direk of deur aftrekking, ten opsigte van inkomste van bronne binne Suid-Afrika, as 'n krediet toegelaat teen die Koreaanse belasting betaalbaar ten opsigte van daardie inkomste. Die krediet gaan egter nie daardie proporsie van die Koreaanse belasting te bowe nie wat die inkomste uit bronne binne Suid-Afrika dra tot die totale inkomste onderworpe aan Koreaanse belasting.

(b) In Suid-Afrika word Koreaanse belasting betaal deur inwoners van Suid-Afrika ten opsigte van inkomste belasbaar in Korea, ooreenkomstig die bepalinge van hierdie Konvensie, afgetrek van die belastinge wat ingevolge Suid-Afrikaanse fiskale reg betaalbaar is. Sodanige aftrekking is egter nie meer nie as 'n bedrag wat in dieselfde verhouding tot die totale Suid-Afrikaanse belasting staan as die verhouding waarin die betrokke inkomste tot die totale inkomste staan.

Artikel 24***Nie-diskriminasie***

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

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

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

4. Behalwe waar die bepalinge van paragraaf 1 van Artikel 9, paragraaf 8 van Artikel 11 of paragraaf 6 van Artikel 12 van toepassing is, is rente, tantièmes en ander uitbetalings deur 'n onderneming van 'n Kontrakterende Staat aan 'n inwoner van die ander Kontrakterende Staat by die vasstelling van die belasbare winste van sodanige onderneming, aftrekbaar onder dieselfde omstandighede asof hulle aan 'n inwoner van eersgenoemde Staat betaal is.

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

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

Article 25***Mutual Agreement Procedure***

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

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

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

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

Article 26***Exchange of Information***

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

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

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

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

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

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

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

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

Artikel 26***Uitruil van Inligting***

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

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

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

Article 27***Members of Diplomatic Missions and Consular Posts***

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

Article 28***Entry into Force***

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

2. The provisions of the Convention shall apply:

- (a) with regard to taxes withheld at source on or after the first day of January in the calendar year following that in which the Convention enters into force; and
- (b) with regard to other taxes, in respect of taxable years beginning on or after the first day of January in the calendar year following that in which the Convention enters into force.

Article 29***Termination***

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

2. In such event the Convention shall cease to apply:

- (a) with regard to taxes withheld at source on or after the first day of January in the calendar year following that in which the notice is given; and
- (b) with regard to other taxes, in respect of taxable years beginning on or after the first day of January in the calendar year following that in which the notice is given.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Convention.

DONE in duplicate at Seoul, this 7th day of July 1995, in the English and Korean languages, both texts being equally authentic.

(Signed) N.R.Mandela
FOR THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA

(Signed) Gong Ro-Myung
FOR THE GOVERNMENT OF THE
REPUBLIC OF KOREA

Artikel 27***Lede van Diplomatieke Sendings en Konsulêre Poste***

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

Artikel 28***Inwerkingtreding***

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

2. Die bepalings van hierdie Konvensie is van toepassing:

- (a) met betrekking tot belastings wat by die bron teruggehou word, op of na die eerste dag van Januarie in die kalenderjaar eersvolgende op dié waarin die Konvensie in werking tree; en
- (b) met betrekking tot ander belastings, ten opsigte van belasbare jare beginnende op of na die eerste dag van Januarie in die kalenderjaar eersvolgende op dié waarin die Konvensie in werking tree.

Artikel 29***Opsegging***

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

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

- (a) met betrekking tot belastings wat by die bron teruggehou word, op of na die eerste dag van Januarie in die kalenderjaar eersvolgende op dié waarin die kennis gegee word; en
- (b) met betrekking tot ander belastings, ten opsigte van belasbare jare beginnende op of na die eerste dag van Januarie in die kalenderjaar eersvolgende op dié waarin die kennis gegee word.

TEN BEWYSE WAARVAN die ondergetekendes, synde behoorlik daartoe gemagtig deur hul onderskeie Regerings, hierdie Konvensie onderteken het.

GEDOEN, in tweevoud, te Seoel op hede die 7de dag van Julie 1995, in die Koreaanse en Engelse taal, waarvan albei weergawes ewe outentiek is.

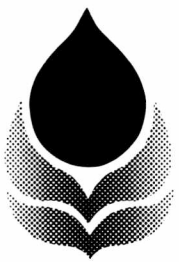
(Geteken) N.R.Mandela

NAMENS DIE REGERING VAN DIE
REPUBLIEK VAN SUID-AFRIKA

(Geteken) Gong Ro-Myung

NAMENS DIE REGERING VAN DIE
REPUBLIEK VAN KOREA

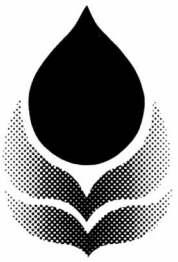
Use it

Don't abuse  it

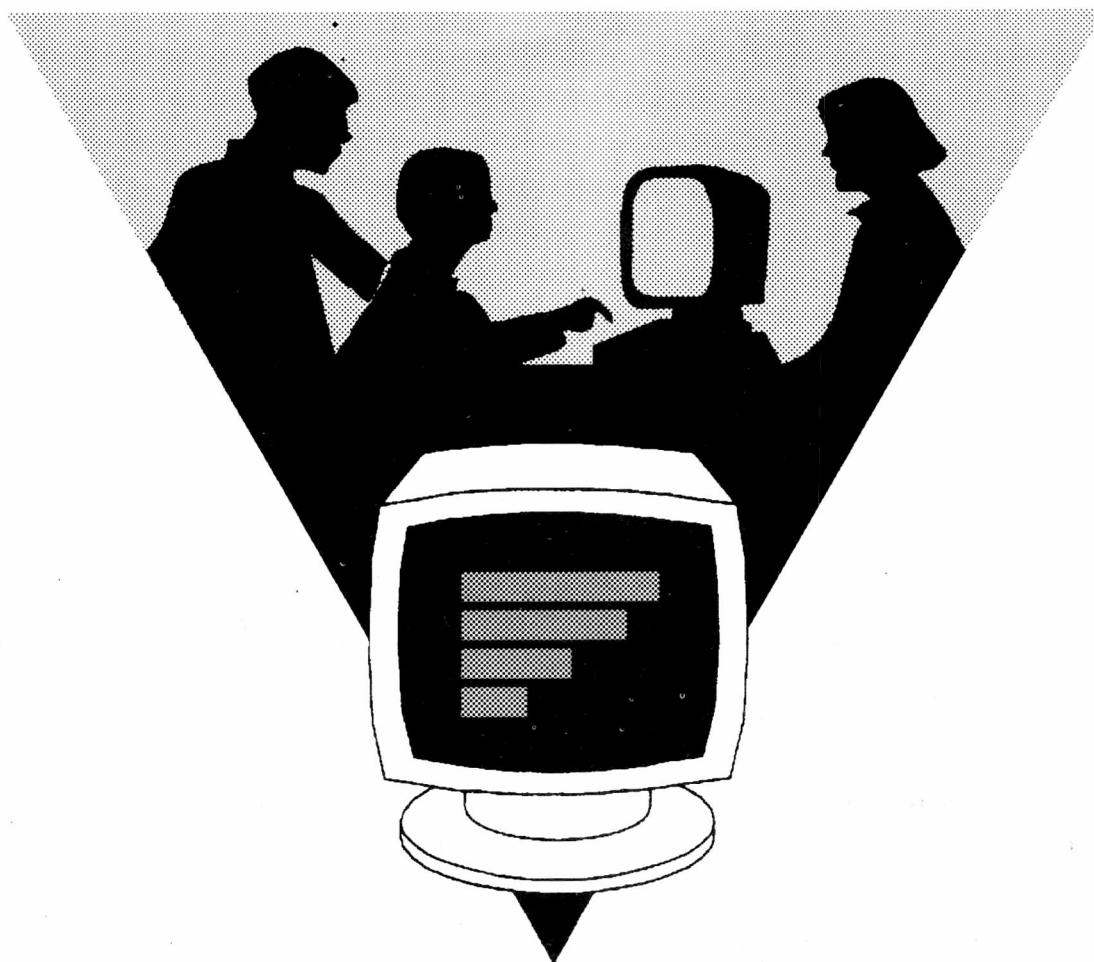
water is for everybody



Werk mooi daarmee

Ons leef  daarvan

water is kosbaar



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