

REPUBLIC
OF
SOUTH AFRICA



REPUBLIEK
VAN
SUID-AFRIKA

Government Gazette Staatskoerant

Vol. 405

PRETORIA, 8 MARCH
MAART 1999

No. 19823

GOVERNMENT NOTICE

SOUTH AFRICAN REVENUE SERVICE

No. 283

8 March 1999

INCOME TAX ACT, 1962

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

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 Convention for the avoidance of double taxation with respect to taxes on income and the prevention of fiscal evasion set out in the Schedule to this Notice has been entered into with the Government of the Republic of Italy and has been approved by Parliament in terms of section 231 (2) of the Constitution.

It is further notified in terms of paragraph 1 of Article 29 of the Convention, that the date of entry into force is 2 March 1999.

GOEWERMENTSKENNISGEWING

SUID-AFRIKAANSE INKOMSTE- DIENS

No. 283

8 Maart 1999

INKOMSTEBELASTINGWET, 1962

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

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

Daar word verder bekendgemaak dat ingevolge paragraaf 1 van Artikel 29 van die Konvensie, die datum van inwerkingtreding 2 Maart 1999 is.

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

PREAMBLE

The Government of the Republic of South Africa and the Government of the Republic of Italy, desiring to promote and strengthen the economic relations between the two countries, to avoid double taxation with respect to taxes on income and prevent fiscal evasion,

Have agreed as follows:

Article 1

Personal Scope

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

Article 2

Taxes Covered

1. This Convention shall apply to taxes on income imposed on behalf of each Contracting State or of its political or administrative subdivisions or local authorities, 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, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which the Convention shall apply are in particular:
 - (a) in Italy:
 - (i) the individual income tax (imposta sul reddito delle persone fisiche); and
 - (ii) the corporate income tax (imposta sul reddito delle persone giuridiche);

whether or not collected by withholding at source;

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

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

AANHEF

Die Regering van die Republiek van Suid-Afrika en die Regering van die Italiaanse Republiek het, uit 'n begeerte om die ekonomiese bande tussen die twee lande te bevorder en te versterk, dubbele belasting met betrekking tot belasting op inkomste te vermy en fiskale ontduiking te voorkom,

Soos volg ooreengekom:

Artikel 1

Persoonlike Omvang

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

Artikel 2

Belastings Gedek

1. Hierdie Konvensie is van toepassing op belasting op inkomste, opgelê namens 'n Kontrakterende Staat of van sy staatkundige of administratiewe onderverdelings of plaaslike owerhede, ongeag die wyse waarop dit gehef word.

2. As belasting op inkomste word geag alle belasting gehef op totale inkomste of op bestanddele van inkomste, met inbegrip van belasting op winste verkry uit die vervreemding van roerende of onroerende eiendom, belasting op die totale bedrae van lone of salarisse deur ondernemings betaal, asook belasting op kapitaalappresiasie.

3. Die bestaande belasting waarop die Konvensie van toepassing is, is in die besonder:

(a) in Italië:

- (i) die inkomstebelasting op individue (imposta sul reddito delle persone fisiche); en
- (ii) die maatskappy-inkomstebelasting (imposta sul reddito delle persone giuridiche);

hetsy ingevorder by wyse van terughouding by die bron al dan nie;

(hierna "Italiaanse belasting" genoem); en

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

whether or not collected by withholding at source;

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

4. The Convention shall also apply to any other taxes of an identical or substantially similar character which are imposed after the date of signature of this Convention in addition to, or in place of, the existing taxes referred to in this Article.

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

Article 3

General Definitions

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

- (a) the term "Italy" means the Republic of Italy and includes any area beyond the territorial waters of Italy which, in accordance with the laws of Italy concerning the exploration and exploitation of natural resources, may be designated as an area within which the rights of Italy, with respect to the seabed and subsoil and 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, as an area within which South Africa may exercise sovereign rights;
- (c) the terms "Contracting State", "one of the Contracting States" and "the other Contracting State" mean Italy or South Africa, as the context requires;
- (d) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (e) the term "competent authority" means:
 - (i) in Italy, the Ministry of Finance; and
 - (ii) in South Africa, the Commissioner for Inland Revenue or his authorized representative;
- (f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (g) the term "international traffic" means any transport by ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (h) the term "nationals" means all individuals possessing the nationality of a Contracting State and all legal persons, partnerships, associations and other entities deriving their status as such from the laws in force in a Contracting State;

(b) in Suid-Afrika:

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

hetsy ingevorder by wyse van terughouding by die bron al dan nie;

(hierna "Suid-Afrikaanse belasting" genoem).

4. Die Konvensie is ook van toepassing op enige ander belastings van 'n identiese of wesenlik soortgelyke aard wat na die datum van ondertekening van hierdie Konvensie bykomend by of in plaas van die bestaande belastings in hierdie Artikel genoem word, opgelê word.

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

Artikel 3

Algemene Woordskrywings

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

- (a) beteken die uitdrukking "Italië" die Italiaanse Republiek en ook enige deel buite die territoriale waters van Italië wat, ooreenkomstig die wette van Italië met betrekking tot die eksplorasië en ontginning van natuurlike hulpbronne, aangewys mag word as 'n deel waarbinne die regte van Italië met betrekking tot die seebodem en ondergrond en natuurlike hulpbronne uitgeoefen mag word;
- (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 aangewys is of hierna aangewys mag word as 'n deel waarbinne Suid-Afrika soewereine regte mag uitoefen;
- (c) beteken die uitdrukking "Kontrakterende Staat", "een van die Kontrakterende State" en "die ander Kontrakterende Staat" Italië of Suid-Afrika, na gelang die samehang vereis;
- (d) beteken die uitdrukking "maatskappy" enige regspersoon of enige entiteit wat vir belastingdoeleindes as 'n regspersoon behandel word;
- (e) beteken die uitdrukking "bevoegde owerheid":
 - (i) in Italië, die Ministerie van Finansies; en
 - (ii) in Suid-Afrika, die Kommissaris van Binnelandse Inkomste of sy gemagtigde verteenwoordiger;
- (f) beteken die uitdrukking "onderneming van 'n Kontrakterende Staat" en "onderneming van die ander Kontrakterende Staat" onderskeidelik 'n onderneming bedryf deur 'n inwoner van 'n Kontrakterende Staat en 'n onderneming bedryf deur 'n inwoner van die ander Kontrakterende Staat;
- (g) beteken die uitdrukking "internasionale verkeer" enige vervoer per skip of vliegtuig bedryf deur 'n onderneming waarvan die plek van effektiewe bestuur in 'n Kontrakterende Staat geleë is, behalwe wanneer die skip of vliegtuig slegs tussen plekke in die ander Kontrakterende Staat bedryf word;
- (h) beteken die uitdrukking "burgers" alle individue wat burgerskap van 'n Kontrakterende Staat besit en alle regspersone, vennootskappe, verenigings en ander entiteite wat hul status as sodanig verkry van die wette wat in 'n Kontrakterende Staat van krag is;

- (i) the term "person" includes an individual, a company and any other body of persons which is treated as an entity for tax purposes.

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

Article 4

Resident

1. For the purposes of this Convention the term "resident of a Contracting State" means:
 - (a) in the case of Italy, any person who, under the law of Italy, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature; but the term does not include any person who is liable to tax in Italy in respect only of income from sources in Italy; and
 - (b) in the case of South Africa, any individual who is ordinarily resident in South Africa and any other person which has its place of effective management in South Africa;
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:
 - (a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
 - (b) if the State in which he has his centre of vital interests cannot be determined, or if he does not have a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
 - (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
 - (d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1, a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

Article 5

Permanent Establishment

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.
2. The term "permanent establishment" shall include especially:
 - (a) a place of management;
 - (b) a branch;

- (i) beteken die uitdrukking "persoon" ook 'n individu, 'n maatskappy en enige ander liggaam van persone wat vir belastingdoeleindes as 'n entiteit beskou word.

2. By die toepassing van die bepalings van hierdie Konvensie deur 'n Kontrakterende Staat, het 'n uitdrukking wat nie hierin anders omskryf is nie, tensy die samehang anders vereis, die betekenis wat daaraan geheg word deur daardie Kontrakterende Staat se wette betreffende die belastinge waarvoor hierdie Konvensie handel.

Artikel 4

Inwoner

1. By die toepassing van hierdie Konvensie beteken die uitdrukking "inwoner van 'n Kontrakterende Staat":
 - (a) in die geval van Italië, 'n persoon wat kragtens die wette van Italië daarin belastingpligtig is uit hoofde van sy domisilie, verblyf, plek van bestuur of enige ander soortgelyke maatstaf; hierdie uitdrukking sluit egter nie 'n persoon in wat in Italië belastingpligtig is slegs ten opsigte van inkomste uit bronne in Italië nie; en
 - (b) in die geval van Suid-Afrika, 'n individu wat gewoonlik in Suid-Afrika woonagtig is en enige ander persoon wie se plek van effektiewe bestuur in Suid-Afrika geleë is.
2. Waar 'n individu uit hoofde van die bepalings van paragraaf 1 'n inwoner van beide Kontrakterende State is, word sy status soos volg bepaal:
 - (a) hy word geag 'n inwoner te wees van die Staat waarin hy 'n permanente tuiste tot sy beskikking het; indien hy in beide State 'n permanente tuiste tot sy beskikking het, word hy geag 'n inwoner te wees van die Staat waarmee sy persoonlike en ekonomiese betrekkinge die nouste is (tuiste van lewensbelange);
 - (b) indien die Staat waarin hy sy tuiste van lewensbelange het nie bepaal kan word nie, of indien hy nie 'n permanente tuiste in enigiens van die State tot sy beskikking het nie, word hy geag 'n inwoner te wees van die Staat waarin hy 'n gebruikelike verblyfplek het;
 - (c) indien hy 'n gebruikelike verblyfplek in beide State het, of in geeneen van hulle nie, word hy geag 'n inwoner te wees van die Staat waarvan hy 'n burger is;
 - (d) indien hy 'n burger van beide State is, of van geeneen van hulle nie, besleg die bevoegde owerhede van die Kontrakterende State die saak deur middel van onderlinge ooreenkoms.

3. Waar uit hoofde van die bepalings van paragraaf 1 'n ander persoon as 'n individu 'n inwoner van beide Kontrakterende State is, word hy geag 'n inwoner te wees van die Staat waarin sy plek van effektiewe bestuur geleë is.

Artikel 5

Permanente Saak

1. By die toepassing van hierdie Konvensie beteken die uitdrukking "permanente saak" 'n vaste besigheidsplek waarin 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) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources; and
- (g) a building site or a construction, installation or assembly project and supervisory activities in connection therewith which exists for a period of more than twelve months.

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

- (a) the use of facilities solely for the purpose of storage, display or delivery 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; and
- (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.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State - other than an agent of independent status to whom paragraph 5 applies - shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other 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.

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

- (c) 'n kantoor;
- (d) 'n fabriek;
- (e) 'n werkwinkel;
- (f) 'n myn, 'n olie- of gasbron, 'n steengroef of enige ander plek van ontginning van natuurlike hulpbronne; en
- (g) 'n bouterrein of 'n konstruksie-, installasie- of monteerprojek en toesighoudende bedrywighede in verband daarmee wat vir 'n tydperk van meer as twaalf maande bestaan.

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

- (a) die gebruik van fasiliteite slegs met die doel om goedere of handelsware wat aan die onderneming behoort op te berg, te vertoon of af te lewer;
- (b) die instandhouding van 'n voorraad goedere of handelsware wat aan die onderneming behoort, slegs met die doel om dit op te berg, te vertoon of af te lewer;
- (c) die instandhouding van 'n voorraad goedere of handelsware wat aan die onderneming behoort, slegs vir die doel van verwerking deur 'n ander onderneming;
- (d) die instandhouding van 'n vaste besigheidsplek slegs met die doel om vir die onderneming goedere of handelsware aan te koop of inligting in te win; en
- (e) die instandhouding van 'n vaste besigheidsplek slegs met die doel om vir die onderneming te adverteer, inligting te verskaf, wetenskaplike navorsing te doen of vir dergelike bedrywighede wat van 'n voorlopige of bykomstige aard is.

4. 'n Persoon wat in 'n Kontrakterende Staat namens 'n onderneming van die ander Kontrakterende Staat optree - uitgesonderd 'n agent met 'n onafhanklike status op wie paragraaf 5 van toepassing is - word geag 'n permanente saak in eersgenoemde Staat te wees indien hy magtiging in eersgenoemde Staat besit, en dit gewoonlik uitoefen, om kontrakte in die naam van die onderneming te sluit, tensy sy bedrywighede beperk is tot die aankoop van goedere of handelsware vir die onderneming.

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

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

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 and 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 shall also be considered as immovable property. Ships, boats and aircraft shall not be regarded as immovable property.

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

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

Article 7

Business Profits

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

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

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

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

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

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

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

2. Die uitdrukking "onroerende eiendom" het die betekenis wat daaraan geheg is ingevolge die reg van die Kontrakterende Staat waarin die betrokke eiendom geleë is. Die uitdrukking sluit in ieder geval in eiendom wat bykomend by onroerende eiendom is, lewende hawe en toerusting wat in landbou en bosbou gebruik word en 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 word ook geag onroerende eiendom te wees. Skepe, bote en vliegtuie word nie geag onroerende eiendom te wees nie.

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

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

Artikel 7

Besigheidswinste

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

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

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

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

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

6. Vir doeleindes van die voorgaande paragrafe, tensy daar goeie en afdoende rede tot die teendeel is, word die winste wat aan 'n permanente saak toegeskryf moet word, jaar na jaar volgens dieselfde metode vasgestel.

7. 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.

Article 8

Shipping and Air Transport

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.
3. The provisions of paragraph 1. shall also apply to profits 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.

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 has owned at least 25 per cent of the capital of the company paying the dividends for a 12 month period ending on the date the dividend is declared;
 - (b) 15 per cent of the gross amount of the dividends in all other cases.

Artikel 8***Skeepvaart en Lugvervoer***

1. Winste uit die bedryf van skepe of vliegtuie in internasionale verkeer is slegs in die Kontrakterende Staat waarin die plek van effektiewe bestuur van die onderneming geleë is, belasbaar.
2. Indien die plek van effektiewe bestuur van 'n skeepvaartonderneming aan boord van 'n skip is, word dit geag geleë te wees in die Kontrakterende Staat waarin die tuishawe van die skip geleë is, of, indien daar geen sodanige tuishawe is nie, in die Kontrakterende Staat waarvan die operateur van die skip 'n inwoner is.
3. Die bepalinge van paragraaf 1 is ook van toepassing op winste ten opsigte van die deelname aan 'n winsdeling, 'n gesamentlike besigheid of 'n internasionale bedryfsagentskap.

Artikel 9***Verwante Ondernemings*****1. Waar:**

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

en in enigeen van die gevalle voorwaardes tussen die twee ondernemings met betrekking tot hul handels- of finansiële betrekkinge gestel of opgelê word wat verskil van dié wat tussen onafhanklike ondernemings gestel sou word, 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 word en dienooreenkomstig belas word.

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 mag 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 minstens 25 persent besit het van die kapitaal van die maatskappy wat die dividende betaal vir 'n 12 maandetydperk eindigende op die datum waarop die dividende verklaar word;
 - (b) 15 persent van die bruto bedrag van die dividende in alle ander gevalle.

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, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights participating in profits (not being debt-claims), as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the Contracting State of which the company making the distribution is a resident.

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

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 insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

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.

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 or administrative subdivision or a local authority thereof; or
- (b) the interest is paid to the Government of the other Contracting State or a political or administrative subdivision or a local authority thereof or any agency or instrumentality (including a financial institution) wholly owned by that other State or subdivision or authority; or

Die bevoegde owerhede van die Kontrakterende State besleg die wyse van toepassing van hierdie beperkinge deur onderlinge ooreenkoms.

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

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

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

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

Artikel 11

Rente

1. Rente wat in 'n Kontrakterende Staat ontstaan en aan 'n inwoner van die ander Kontrakterende Staat betaal word, 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 heef nie 10 persent van die bruto bedrag van die rente te bowe nie.

Die bevoegde owerhede van die Kontrakterende State besleg die wyse van toepassing van hierdie beperking deur onderlinge ooreenkoms.

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

- (a) die betaler van die rente die Regering van daardie Kontrakterende Staat is of 'n staatkundige of administratiewe onderverdeling of 'n plaaslike owerheid daarvan; of
- (b) die rente betaal word aan die Regering van die ander Kontrakterende Staat of 'n staatkundige of administratiewe onderverdeling of 'n plaaslike owerheid daarvan of enige agent of instansie (met inbegrip van 'n finansiële instelling) in sy geheel besit deur daardie ander Staat of onderverdeling of owerheid; of

- (c) the interest is paid to any other agency or instrumentality (including a financial institution) in relation to loans made in application of an agreement concluded between the Governments of the Contracting States.

4. The term "interest" as used in this Article means income from government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such a case, the interest is taxable in that other Contracting State according to its own law.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative 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.

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

Article 12

Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State 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 6 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 television or radio broadcasting), any patent, trade mark, design or model, computer programme, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

- (c) die rente betaal word aan enige ander agent of instansie (met inbegrip van 'n finansiële instelling) met betrekking tot lenings gesluit by die toepassing van 'n ooreenkoms aangegaan tussen die Regerings van die Kontrakterende State.

4. Die uitdrukking "rente" soos in hierdie Artikel gebesig, beteken inkomste uit staatseffekte, obligasies of skuldbriewe, hetsy gesekureer deur verband al dan nie en hetsy dit 'n reg inhou om in winste en alle soorte skuldeise te deel al dan nie, asook alle ander inkomste gelykgestel met inkomste uit geld wat uitgeleen is deur die belastingwet van die Staat waarin die inkomste ontstaan.

5. Die bepalinge van paragrawe 1, 2 en 3 is nie van toepassing nie indien die bevoordeelde eienaar van die rente, synde 'n inwoner van 'n Kontrakterende Staat, in die ander Kontrakterende Staat waarin die rente ontstaan besigheid dryf deur middel van 'n permanente saak daarin geleë, of in daardie ander Staat onafhanklike persoonlike dienste verrig vanaf 'n vaste basis daarin geleë, en die skuldeise ten opsigte waarvan die rente betaal word, effektief verbonde is met sodanige permanente saak of vaste basis. In sodanige geval is die rente in daardie ander Kontrakterende Staat belasbaar volgens sy eie reg.

6. Rente word geag in 'n Kontrakterende Staat te ontstaan wanneer die betaler daardie Staat self, 'n staatkundige of administratiewe 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 skuldeise waarop die rente betaal word, aangegaan is, en sodanige rente deur daardie permanente saak of vaste basis gedra word, word sodanige rente geag te ontstaan in die Staat waarin die permanente saak of vaste basis geleë is.

7. Waar, as gevolg van 'n besondere verband tussen die betaler en die bevoordeelde eienaar of tussen albei van hulle en 'n ander persoon, die bedrag van die rente, met inagneming van die skuldeise ten opsigte waarvan 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 belasbaar ooreenkomstig die wette van elke Kontrakterende Staat, met behoorlike inagneming van die ander bepalinge van hierdie Konvensie.

Artikel 12

Tantièmes

1. Tantièmes wat in 'n Kontrakterende Staat ontstaan en aan 'n inwoner van die ander Kontrakterende Staat betaal word, 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 gehef nie 6 persent van die bruto bedrag van die tantièmes te bowe nie.

Die bevoegde owerhede van die Kontrakterende State besleg die wyse van toepassing van hierdie beperking deur onderlinge ooreenkomste.

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

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

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

Article 13

Capital Gains

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

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

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

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

5. The provisions of paragraph 4 of this Article shall not affect the right of a Contracting State to levy according to its law a tax on gains from the alienation of any property derived by an individual who:

- (a) is a resident of the other Contracting State; and
- (b) has been a resident of the first-mentioned Contracting State at any time during the five years immediately preceding the alienation of the property; and

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 middel van 'n permanente saak daarin geleë, of in daardie ander Staat onafhanklike persoonlike dienste verrig vanaf 'n vaste basis daarin geleë, en die reg of eiendom ten opsigte waarvan die tantièmes betaal word, effektief verbonde is met sodanige permanente saak of vaste basis. In sodanige geval is die tantièmes in daardie ander Kontrakterende Staat belasbaar volgens sy eie reg.

5. Tantièmes word geag in 'n Kontrakterende Staat te ontstaan wanneer die betaler daardie Staat self, 'n staatkundige of administratiewe 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 in verband 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, as gevolg van 'n besondere verband tussen die betaler en die bevoordeelde eienaar of tussen albei van hulle en 'n ander persoon, die bedrag van die tantièmes betaal, met inagneming van die gebruik, reg of inligting waarvoor hulle betaal word, die bedrag te bowe gaan waaroor die betaler en die bevoordeelde eienaar sou ooreengekom het by ontstentenis van sodanige verband, 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 deur 'n inwoner van 'n Kontrakterende Staat verkry 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 uit die vervreemding van skepe of vliegtuie wat in internasionale verkeer bedryf word, of roerende eiendom wat betrekking het op die bedryf van sodanige skepe of vliegtuie, is slegs in die Kontrakterende Staat waarin die plek van effektiewe bestuur van die onderneming geleë is, belasbaar.

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

5. Die bepalinge van paragraaf 4 van hierdie Artikel raak nie die reg nie van 'n Kontrakterende Staat om volgens sy wet 'n belasting te hef op winste verkry uit die vervreemding van enige eiendom deur 'n individu wat:

- (a) 'n inwoner van die ander Kontrakterende Staat is; en
- (b) 'n inwoner van eersgenoemde Kontrakterende Staat was te eniger tyd gedurende die vyf jaar wat die vervreemding van die eiendom onmiddellik voorafgaan; en

- (c) such property was acquired while the individual was a resident of the first-mentioned State; and
- (d) is not subject to tax on those gains in the other Contracting State.

Article 14

Independent Personal Services

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.
2. The term "professional services" includes, especially, independent scientific, literary, artistic, educational or teaching activities as well as 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, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
 - (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; and
 - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
 - (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16

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.

- (c) sodanige eiendom verkry is terwyl die individu 'n inwoner van eersgenoemde Staat was; en
- (d) nie in die ander Kontrakterende Staat aan belasting op daardie winste onderworpe is nie.

Artikel 14

Onafhanklike Persoonlike Dienste

1. Inkomste verkry deur 'n inwoner van 'n Kontrakterende Staat 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 vir doeleindes van die verrigting van sy bedrywighede. Indien hy sodanige vaste basis het, kan die inkomste in die ander Staat belas word, maar slegs soveel daarvan as wat aan daardie vaste basis toeskryfbaar is.

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

Artikel 15

Afhanklike Persoonlike Dienste

1. Behoudens die bepalings van Artikels 16, 18, 19, 20 en 21 is salarisse, lone en ander soortgelyke besoldiging wat deur 'n inwoner van 'n Kontrakterende Staat ten opsigte van 'n diensbetrekking verkry word, slegs in daardie Staat belasbaar, tensy die diensbetrekking in die ander Kontrakterende Staat beoefen word. Indien die diensbetrekking aldus beoefen word, kan die besoldiging wat daaruit verkry word in daardie ander 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 in die ander Staat teenwoordig is vir 'n tydperk of tydperke wat altesaam nie 183 dae gedurende 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 werkgever wat nie 'n inwoner van die ander Staat is nie; en
- (c) die besoldiging nie gedra word deur 'n permanente saak of 'n vaste basis wat die werkgever in die ander Staat het nie.

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

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 entertainers, such as theatre, motion picture, radio or television artistes, and musicians, or by sportsmen, 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 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.

Article 18

Pensions and Annuities

Subject to the provisions of paragraph 2 of Article 19, pensions and similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 19

Government Service

1. (a) Remuneration, other than a pension, paid by a Contracting State or a political or an administrative subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or authority thereof shall be taxable only in that State.

(b) Notwithstanding the provisions of subparagraph 1 (a) of this Article, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the recipient is a resident of that other State who:

- (i) is a national of that other State not being a national of the first-mentioned State; or
- (ii) not being a national of the first-mentioned State did not become a resident of that other State solely for the purpose of performing the services.

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

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State without having the nationality of the State from which the pension is derived.

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

Artikel 17

Verhoogkunstenaars en Sportlui

1. Ondanks die bepalinge van Artikels 7, 14 en 15 kan inkomste wat verkry word deur verhoogkunstenaars, soos teater-, rolprent-, radio- of televisie-artieste, en musikante, of deur sportmanne, uit hul persoonlike bedrywighede as sodanig, belas word in die Kontrakterende Staat waarin hierdie bedrywighede beoefen word.

2. Waar inkomste ten opsigte van persoonlike bedrywighede wat deur 'n verhoogkunstenaar of 'n 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 bepalinge van Artikels 7, 14 en 15, belas word in die Kontrakterende Staat waarin die bedrywighede van die verhoogkunstenaar of sportman beoefen word.

Artikel 18

Pensioene en Annuïteite

Behoudens die bepalinge van paragraaf 2 van Artikel 19 is pensioene en soortgelyke besoldiging wat aan 'n inwoner van 'n Kontrakterende Staat betaal word as vergoeding vir eertydse diens, slegs in daardie Staat belasbaar.

Artikel 19

Regeringsdiens

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

(b) Behoudens die bepalinge van subparagraaf 1(a) van hierdie Artikel is sodanige besoldiging slegs in die ander Kontrakterende Staat belasbaar indien die dienste in daardie ander Staat gelewer word en die ontvanger 'n inwoner van daardie Staat is wat:

- (i) 'n burger van daardie ander Staat is en nie 'n burger van eersgenoemde Staat nie; of
- (ii) nie 'n burger van eersgenoemde Staat is nie en nie 'n inwoner van die ander 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 of administratiewe onderverdeling of 'n plaaslike owerheid daarvan aan 'n individu ten opsigte van dienste gelewer aan daardie Staat of onderverdeling of owerheid daarvan, is slegs in daardie Staat belasbaar.

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

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

Article 20

Teachers

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

2. This Article shall only apply to income from research if such research is undertaken by the individual in the public interest and not primarily for the benefit of a private person or persons.

Article 21

Students and Business Apprentices

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

Article 22

Other Income

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

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

3. Where, by reason of a special relationship between the persons who have carried on activities from which income referred to in paragraph 1 is derived, the payment for such activities exceeds the amount which would have been agreed upon by independent persons, the provisions of paragraph 1 shall apply only to the last-mentioned amount. In such case, the excess part of the payment shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Artikel 20**Onderwysers**

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

2. Hierdie Artikel is slegs van toepassing op inkomste uit navorsing indien sodanige navorsing deur die individu in die openbare belang onderneem word en nie hoofsaaklik vir die voordeel van 'n private persoon of persone nie.

Artikel 21**Studente en Besigheidsvakleerlinge**

'n Student of besigheidsvakleerling wat uitsluitlik vir die doel van sy onderrig of opleiding in 'n Kontrakterende Staat teenwoordig is en wat 'n inwoner is of onmiddellik voordat hy daarheen gegaan het 'n inwoner was van die ander Kontrakterende Staat, is in eersgenoemde Staat vrygestel van belasting op betalings ontvang van buite daardie eersgenoemde Staat vir doeleindes van sy onderhoud, onderrig of opleiding.

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 middel van 'n permanente saak daarin geleë, of in daardie ander Staat onafhanklike persoonlike dienste verrig vanaf 'n vaste basis daarin geleë, en die reg of eiendom ten opsigte waarvan die inkomste betaal word, effektief verbonde is met sodanige permanente saak of vaste basis. In sodanige geval is die inkomste-items in daardie ander Staat belasbaar volgens sy eie reg.

3. Waar, as gevolg van 'n besondere verband tussen die persone wat bedrywighede beoefen het waaruit in paragraaf 1 bedoelde inkomste ontstaan het, die betaling vir sodanige bedrywighede die bedrag te bowe gaan wat ooreengekom sou gewees het deur onafhanklike persone, is die bepalings van paragraaf 1 slegs op laasgenoemde bedrag van toepassing. In sodanige geval bly die oormatige deel van die betaling ooreenkomstig die wette van elk van die Kontrakterende State belasbaar, met behoorlike inagneming van die ander bepalings van hierdie Konvensie.

Article 23

Elimination of Double Taxation

Double taxation shall be eliminated as follows:

1. In Italy, if a resident of Italy owns items of income which are taxable in South Africa, Italy, in determining its income taxes specified in Article 2 of this Convention, may include in the basis upon which such taxes are imposed the said items of income, unless specific provisions of this Convention otherwise provide. In such a case, Italy shall deduct from the taxes so calculated the tax on income paid in South Africa but in an amount not exceeding that proportion of the aforesaid Italian tax which such items of income bear to the entire income. However, no deduction will be granted if the item of income is subjected in Italy to a final withholding tax by request of the recipient of the said income in accordance with Italian law.
2. In South Africa, taxes paid by South African residents in respect of income taxable in Italy, in accordance with the provisions of this Convention, shall be deducted from the taxes due according to South African fiscal law but in an amount not exceeding that proportion of the South African tax which such items of income bear to the entire income.

Article 24

Non-discrimination

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. 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 Article 9, paragraph 7 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 the first-mentioned State are or may be subjected.
5. In this Article the term "taxation" means the taxes which are the subject of this Convention.

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

Dubbele belasting word soos volg uitgeskakel:

1. In Italië, indien 'n inwoner van Italië inkomste-items besit wat in Suid-Afrika belasbaar is, kan Italië by die berekening van sy inkomstebelastings in Artikel 2 van hierdie Konvensie gespesifiseer, sodanige inkomste-items insluit in die basis waarop hierdie belastings gehef word, tensy spesifieke bepalings van hierdie Konvensie anders bepaal. In sodanige geval, trek Italië van die belastings aldus bereken die inkomstebelasting af wat in Suid-Afrika betaal is, maar tot 'n bedrag wat nie meer is nie as daardie verhouding van die voormelde Italiaanse belasting waarin sodanige inkomste-items tot die totale inkomste staan. Geen aftrekking word egter toegestaan nie indien die inkomste-item in Italië op versoek van die ontvanger van gemelde inkomste ooreenkomstig Italiaanse reg, aan 'n finale terughoubelasting onderworpe is.

2. In Suid-Afrika word belastings betaal deur inwoners van Suid-Afrika ten opsigte van inkomste wat in Italië belasbaar is ooreenkomstig die bepalings van hierdie Konvensie, afgetrek van die belastings wat ingevolge Suid-Afrikaanse fiskale reg betaalbaar is maar tot 'n bedrag wat nie meer is nie as daardie verhouding van die Suid-Afrikaanse belasting waarin sodanige inkomste-items tot die totale inkomste staan.

Artikel 24***Nie-diskriminasie***

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

2. Die belasting op 'n permanente saak wat 'n onderneming van 'n Kontrakterende Staat in die ander Kontrakterende Staat het, mag nie in daardie ander Staat op 'n minder gunstige wyse gehef word as die belasting wat gehef word op ondernemings van daardie ander Staat wat dieselfde bedrywighede beoefen nie. Hierdie bepaling word nie uitgelê as sou dit 'n Kontrakterende Staat verplig om aan inwoners van die ander Kontrakterende Staat enige persoonlike toelatings, verligtings en verminderings vir belastingdoeleindes uit hoofde van burgerlike status of gesinsverantwoordelikhede toe te staan wat hy aan sy eie inwoners toestaan nie.

3. Behalwe waar die bepalings van Artikel 9, paragraaf 7 van Artikel 11, of paragraaf 6 van Artikel 12 van toepassing is, is rente, tantiemes en ander uitbetalings deur 'n onderneming van 'n Kontrakterende Staat aan 'n inwoner van die ander Kontrakterende Staat by die vasstelling van die belasbare winste van sodanige onderneming, onder dieselfde omstandighede aftrekbaar asof dit aan 'n inwoner van eersgenoemde Staat betaal was.

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

5. In hierdie Artikel beteken die uitdrukking "belasting" die belastings waaroor 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 this Convention, he may, irrespective of the remedies provided by the domestic laws of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with this Convention.

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 this Convention.

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

Article 26

Exchange of Information

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

2. The competent authorities shall, through consultation, develop appropriate conditions, methods and techniques concerning the matters in respect of which such exchanges of information shall be made, including, where appropriate, exchanges of information regarding tax avoidance.

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, ondanks 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, indien sy saak onder paragraaf 1 van Artikel 24 val, 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 dat belasting wat nie inooreenstemming met die bepalinge van hierdie Konvensie gehef is nie.

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

3. Die bevoegde owerhede van die Kontrakterende State moet probeer om enige moeilikhede of twyfel wat in verband met die uitleg of toepassing van 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 hierdie Konvensie voorsiening gemaak word nie.

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

Artikel 26

Uitruil van Inligting

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

2. Die bevoegde owerhede moet, deur raadpleging, toepaslike voorwaardes, metodes en tegnieke ontwikkel met betrekking tot die aangeleenthede ten opsigte waarvan sodanige uitruilings van inligting moet plaasvind, met inbegrip van, waar toepaslik, uitruilings van inligting aangaande belastingvermyding.

3. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States the obligation:

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

Article 27

Diplomatic Agents and Consular Officials

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

Article 28

Refunds

1. Taxes withheld at source in a Contracting State shall be refunded at the request of the taxpayer or of the State of which he is a resident if the right to collect the said taxes is affected by the provisions of this Convention.

2. Any claim for refund shall be lodged within the time limit fixed by the law of the Contracting State which is obliged to make the refund, and shall be accompanied by an official certificate of the Contracting State of which the taxpayer is a resident certifying the existence of the conditions required for being entitled to the application of the benefits provided for by this Convention.

3. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this Article, in accordance with the provisions of Article 25 of this Convention.

Article 29

Entry into Force

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

2. The provisions of this Convention shall apply:

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

3. Die bepalinge van paragraaf 1 word nie uitgelê nie as sou dit 'n Kontrakterende Staat die verpligting oplê om:
- (a) administratiewe maatreëls uit te voer wat strydig is met die wette en die administratiewe praktyk van daardie of van die ander Kontrakterende Staat;
 - (b) inligting te verstrek wat nie kragtens die wette of in die normale loop van die administrasie van daardie of van die ander Kontrakterende Staat verkrygbaar is nie;
 - (c) inligting te verstrek wat enige handels-, besigheids-, nywerheids-, kommersiële of professionele geheim of handelsproses sou openbaar, of inligting te verstrek waarvan die openbaarmaking strydig met die openbare beleid (ordre public) sou wees.

Artikel 27

Diplomatiese Agente en Konsulêre Beamptes

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

Artikel 28

Terugbetalings

1. Belastinge teruggehou by die bron in 'n Kontrakterende Staat moet op versoek van die belastingpligtige of van die Staat waarvan hy 'n inwoner is, terugbetaal word indien die reg om genoemde belastinge te vorder deur die bepalinge van hierdie Konvensie geraak word.
2. Enige eis om terugbetaling moet ingedien word binne die tydsebeperking vasgestel deur die reg van die Kontrakterende Staat wat verplig is om die terugbetaling te doen en moet vergesel gaan van 'n amptelike sertifikaat van die Kontrakterende Staat waarvan die belastingpligtige 'n inwoner is wat die bestaan sertifiseer van die nodige voorwaardes om geregtig te wees op die toepassing van die voordele waarvoor hierdie Konvensie voorsiening maak.
3. Die bevoegde owerhede van die Kontrakterende State besleg die wyse van toepassing van hierdie Artikel deur onderlinge ooreenkoms ooreenkomstig die bepalinge van Artikel 25 van hierdie Konvensie.

Artikel 29

Inwerkingtreding

1. Elkeen van die Kontrakterende Partye stel die ander in kennis van die afhandeling van die prosedures wat ingevolge sy reg benodig word om hierdie Konvensie in werking te laat tree. Die Konvensie tree in werking op die datum van die laaste van hierdie kennisgewings.
2. Die bepalinge van hierdie Konvensie is van toepassing:
 - (a) met betrekking tot belastinge wat by die bron teruggehou word, ten opsigte van bedrae betaalbaar of gekrediteer op of na die eerste dag van Januarie eersvolgende op die datum waarop hierdie Konvensie in werking tree; en

- (b) with regard to other taxes, in respect of taxable years beginning on or after the first day of January next following the date upon which this Convention enters into force.

3. The existing Agreement between the Italian Republic and the Union of South Africa constituted by Exchange of Notes, dated 26 June 1953, for the avoidance of double taxation on income derived from the business of sea and air transport shall terminate and cease to be effective from the commencement of any year of assessment or period to which the provisions of this Convention apply.

Article 30

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 at least six months before the end of any calendar year after the period of five years from the date on which the Convention enters into force.

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

- (a) with regard to taxes withheld at source, in respect of amounts paid or credited after the end of the calendar year in which such notice is given; and
- (b) with regard to other taxes, in respect of taxable years beginning after the end of the calendar year in which such notice is given.

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

DONE at Rome, in duplicate, this 16th day of November of the year One Thousand Nine Hundred and Ninety Five, in the English and Italian languages, both texts being equally authoritative.

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

**FOR THE GOVERNMENT OF THE
REPUBLIC OF ITALY**

ADDITIONAL PROTOCOL

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

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

- (b) met betrekking tot ander belastinge, ten opsigte van belastingjare beginnende op of na die eerste dag van Januarie eersvolgende op die datum waarop hierdie Konvensie in werking tree.

3. Die bestaande Ooreenkoms tussen die Italiaanse Republiek en die Unie van Suid-Afrika ingestel deur Uitruil van Notas, gedateer 26 Junie 1953, vir die vermyding van dubbele belasting ten opsigte van inkomste verkry uit die bedryf van see- en lugvervoer, word opgesê en is nie meer van krag nie vanaf die begin van enige jaar van aanslag of tydperk waarop die bepalinge van hierdie Konvensie van toepassing is.

Artikel 30

Opsegging

1. Hierdie Konvensie bly vir 'n onbepaalde tyd van krag maar enigeen van die Kontrakterende State kan die Konvensie langs die diplomatieke kanaal opsê deur aan die ander Kontrakterende Staat skriftelik kennis van opsegging te gee minstens ses maande voor die einde van enige kalenderjaar wat begin vyf jaar na die datum waarop die Konvensie in werking tree.

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

- (a) met betrekking tot belastinge wat by die bron teruggehou word, ten opsigte van bedrae betaal of gekrediteer na die einde van die kalenderjaar waarin sodanige kennisgewing gegee is; en
- (b) met betrekking tot ander belastinge, ten opsigte van belasbare jare beginnende na die einde van die kalenderjaar waarin sodanige kennisgewing gegee is.

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

GEDOEN, in tweevoud, te Rome op hede die 16de dag van November van die jaar Eenduisend Negehoenderd Vyf en Negentig, in die Engelse en Italiaanse taal, waarvan albei tekste ewe gesaghebbend is.

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

**NAMENS DIE REGERING VAN DIE
ITALIAANSE REPUBLIEK**

BYKOMENDE PROTOKOL

by die Konvensie tussen die Regering van die Republiek van Suid-Afrika en die Regering van die Italiaanse Republiek vir die vermyding van dubbele belasting met betrekking tot belastinge op inkomste en die voorkoming van fiskale ontduiking.

By die ondertekening van die Konvensie vandag gesluit tussen die Regering van die Italiaanse Republiek en die Regering van die Republiek van Suid-Afrika vir die vermyding van dubbele belasting met betrekking tot belastinge op inkomste en die voorkoming van fiskale ontduiking, het die ondergetekendes ooreengekom op die volgende bykomende bepalinge wat 'n integrerende deel van genoemde Konvensie vorm. Daar word verstaan dat:

1. With reference to paragraph 3 of Article 7, the term "expenses which are incurred for the purposes of the permanent establishment" means the expenses directly connected with the activity of the permanent establishment.
2. With reference to Article 8, profits from the operation in international traffic of ships or aircraft shall include:
 - (a) profits derived from the rental on a bare boat basis of ships or aircraft used in international traffic,
 - (b) profits derived from the use or rental of containersif such profits are incidental to the other profits from the operation of ships or aircraft in international traffic.
3. If, in accordance with Article 9, a redetermination has been made by one Contracting State with respect to a person, the other Contracting State shall, to the extent it agrees that such redetermination reflects arrangements or conditions which would be made between independent persons, make appropriate adjustments with respect to persons who are related to such person and are subject to the taxing jurisdiction of the State. Any such adjustment shall be made only in accordance with the mutual agreement procedure provided for by Article 25 and with paragraph 5 of this Additional Protocol.
4. With reference to paragraphs 1 and 2 of Article 19, remuneration paid to an individual in respect of services rendered to the Italian Foreign Trade Institution (I.C.E) and to the Italian National Tourist Office (E.N.I.T), as well as to the corresponding South African institutions, are covered by the provisions concerning government service.
5. With respect to Article 25, an adjustment of taxes pursuant to that Article may be made only prior to the final determination of such taxes. It is further understood that, the preceding sentence means that invoking the mutual agreement procedure does not relieve a taxpayer of the obligation to initiate the procedure of domestic law for solving tax disputes.
6. The provisions of paragraph 3 of Article 28 shall not prevent the competent authorities of the Contracting States from the carrying out, by mutual agreement, of other practices for the application of the limitations provided for in this Convention.

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

DONE in duplicate at Rome, this 16th day of November 1995, in the English and Italian languages, both texts being equally authentic.

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

**FOR THE GOVERNMENT OF THE
REPUBLIC OF ITALY**

1. Met verwysing na paragraaf 3 van Artikel 7 die uitdrukking "uitgawes wat vir doeleindes van die permanente saak aangegaan is" die uitgawes direk verbonde aan die permanente saak se bedrywighede beteken.

2. Met verwysing na Artikel 8, winste uit die bedryf van skepe of vliegtuie in internasionale verkeer insluit:

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

indien sodanige winste bykomstig by die ander winste uit die bedryf van skepe of vliegtuie in internasionale verkeer is.

3. Indien, ooreenkomstig Artikel 9, 'n Kontrakterende Staat 'n herberekening gedoen het met betrekking tot 'n persoon, die ander Kontrakterende Staat, in die mate waarin hy saamstem dat sodanige herberekening die reëlins of voorwaardes weerspieël wat tussen onafhanklike persone bepaal sou gewees het, toepaslike regstellings moet doen met betrekking tot persone wat aan sodanige persoon verwant is en aan die belastingjurisdiksie van die Staat onderworpe is. Enige sodanige regstelling moet slegs in ooreenstemming met die prosedure vir onderlinge ooreenkoms waarvoor in Artikel 25 voorsiening gemaak word en ooreenkomstig paragraaf 5 van hierdie Bykomende Protokol gedoen word.

4. Met verwysing na paragrawe 1 en 2 van Artikel 19, vergoeding aan 'n individu betaal ten opsigte van dienste gelewer aan die Italiaanse Buitelandse Handelsinstituut (I.C.E) en aan die Italiaanse Nasionale Toeristekantoor (E.N.I.T), asook aan die ooreenstemmende Suid-Afrikaanse instellings, deur die bepalinge betreffende regeringsdiens gedek word.

5. Met betrekking tot Artikel 25, enige regstelling van belastings ooreenkomstig daardie Artikel slegs voor die finale berekening van sodanige belastings gedoen kan word. Daar word verder verstaan dat die voorafgaande sin beteken dat die feit dat die belastingbetaler hom op die prosedure vir onderlinge ooreenkoms beroep, sodanige belastingbetaler nie van die verpligting onthef om die landsregprosedure vir die oplos van belastingdispute in te stel nie.

6. Die bepalinge van paragraaf 3 van Artikel 28 verhoed die bevoegde owerhede van die Kontrakterende State nie om uitvoering te gee, deur onderlinge ooreenkoms, aan ander praktyke vir die toepassing van die beperkings waarvoor hierdie Konvensie voorsiening maak nie.

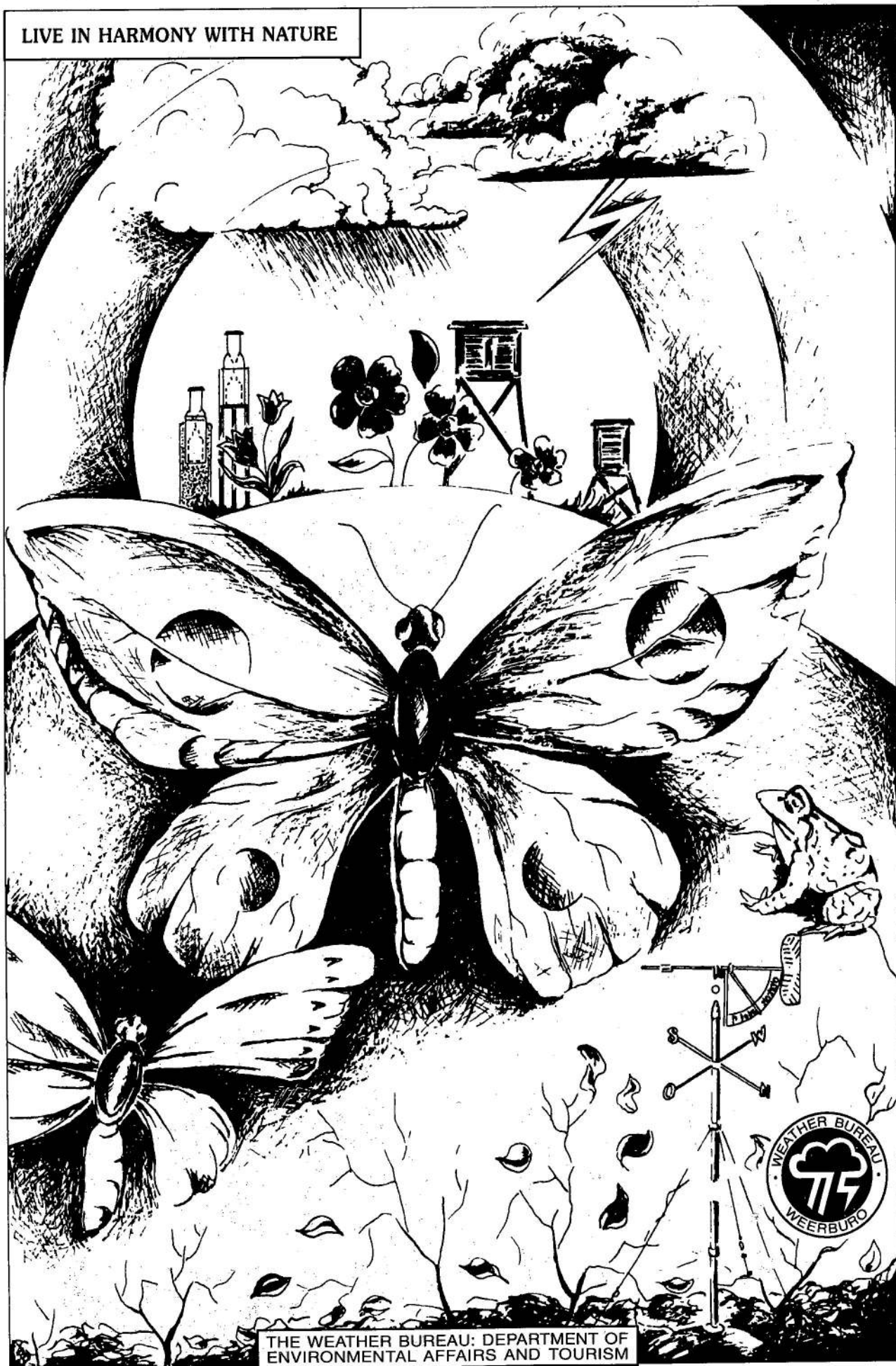
TEN BEWYSE WAARVAN die ondergetekendes, wat behoorlik daartoe gemagtig is, hierdie Bykomende Protokol onderteken het.

GEDOEN, in tweevoud, te Rome op hede die 16de dag van November 1995, in die Engelse en Italiaanse taal, waarvan albei tekste ewe outentiek is.

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

**NAMENS DIE REGERING VAN DIE
ITALIAANSE REPUBLIEK**

LIVE IN HARMONY WITH NATURE



THE WEATHER BUREAU: DEPARTMENT OF
ENVIRONMENTAL AFFAIRS AND TOURISM





THE WEATHER BUREAU HELPS FARMERS TO PLAN THEIR CROP



THE WEATHER BUREAU: DEPARTMENT OF ENVIRONMENTAL AFFAIRS & TOURISM
DIE WEERBURO: DEPARTEMENT VAN OMGEWINGSAKE EN TOERISME

Wetlands are wonderlands!



Department of Environmental Affairs and Tourism

CONTENTS**INHOUD**

No.	Page No.	Gazette No.	No.	Bladsy No.	Koerant No.
GOVERNMENT NOTICE			GOEWERMENTSKENNISGEWING		
South African Revenue Service			Suid-Afrikaanse Inkomstediens		
<i>Government Notice</i>			<i>Goewermentskennisgewing</i>		
283			283		
Income Tax Act (58/1962): Convention between the Republic of South Africa and the Republic of Italy: Avoidance of double taxation with respect to taxes on income and the prevention of fiscal evasion.....		1 19823	Inkomstebelastingwet (58/1962): Konvensie tussen die Republiek van Suid-Afrika en die Italiaanse Republiek: Vermydning van dubbele belasting met betrekking tot belasting op inkomste en vir die voorkoming van fiskale ontduiking		1 19823