

REPUBLIC
OF
SOUTH AFRICA



REPUBLIEK
VAN
SUID-AFRIKA

Government Gazette Staatskoerant

Vol. 405

PRETORIA, 17 MARCH
MAART 1999

No. 19849

GOVERNMENT NOTICE

SOUTH AFRICAN REVENUE SERVICE

No. 350

17 March 1999

INCOME TAX ACT, 1962

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

In terms of section 108 (2) of the Income Tax Act, 1962 (Act No. 58 of 1962), read in conjunction with section 231 (4) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), it is hereby notified that the Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income set out in the Schedule to this Notice has been entered into with the Government of the Islamic Republic of Pakistan 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 27 of the Convention, that the date of entry into force is 9 March 1999.

GOEWERMENTSKENNISGEWING

SUID-AFRIKAANSE INKOMSTE- DIENS

No. 350

17 Maart 1999

INKOMSTEBELASTINGWET, 1962

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

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

Daar word verder bekendgemaak dat ingevolge paragraaf 1 van Artikel 27 van die Konvensie, die datum van inwerkingtreding 9 Maart 1999 is.

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

Preamble

The Government of the Republic of South Africa and the Government of the Islamic Republic of Pakistan and the desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and to promote and strengthen the economic relations between the two countries,

Have agreed as follows:

Article 1

Persons Covered

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 a Contracting State or of its political subdivisions, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income, all taxes imposed on total income or on elements of income.

3. The existing taxes to which the Convention shall apply are:

(a) in Pakistan:

- (i) the income tax;
- (ii) the super tax; and
- (iii) the surcharge;

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

(b) in South Africa:

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

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

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

Aanhef

Die Regering van die Republiek van Suid-Afrika en die Regering van die Islamitiese Republiek Pakistan het, uit 'n begeerte om 'n Konvensie te sluit vir die vermyding van dubbele belasting en die voorkoming van fiskale ontduiking met betrekking tot belasting op inkomste en om die ekonomiese bande tussen die twee lande te bevorder en te versterk,

Soos volg ooreengekom:

Artikel 1

Persone Gedek

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 sy staatkundige onderverdelings, 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.

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

(a) in Pakistan:

- (i) die inkomstebelasting;
- (ii) die superbelasting; en
- (iii) die bobelasting;

(hierna "Pakistan belasting" genoem); en

(b) in Suid-Afrika:

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

(hierna "Suid-Afrikaanse belasting" genoem).

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

Article 3

General Definitions

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

- (a) the term "Pakistan" when used in a geographical sense means Pakistan as defined in the Constitution of the Islamic Republic of Pakistan and includes any area outside the territorial waters of Pakistan which under the laws of Pakistan and international law is an area within which Pakistan exercises sovereign rights and exclusive jurisdiction with respect to the natural resources of the seabed, subsoil and superjacent waters; and
- (b) the term "South Africa" means the Republic of South Africa and, when used in a geographical sense, includes the territorial sea thereof as well as any area outside the territorial sea, including the continental shelf, which has been or may hereafter be designated, under the laws of South Africa and in accordance with international law, as an area within which South Africa may exercise sovereign rights or jurisdiction;
- (c) the terms "a Contracting State" and "the other Contracting State" mean Pakistan or South Africa, as the context requires;
- (d) the term "company" means any body corporate or any entity which is treated as a company or body corporate for tax purposes;
- (e) the term "competent authority" means:
 - (i) in Pakistan, the Central Board of Revenue or its authorised representative; and
 - (ii) in South Africa, the Commissioner for the South African Revenue Service or his authorised representative;
- (f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (h) the term "national" means:
 - (i) any individual possessing the citizenship or nationality of a Contracting State;
 - (ii) any legal person or association deriving its status as such from the laws in force in a Contracting State;
- (i) the term "person" includes an individual, a company and any other body of persons which is treated as an entity for tax purposes; and
- (j) the term "tax" means Pakistan tax or South African tax, as the context requires.

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

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

Artikel 3

Algemene Woordomsrywings

1. By die toepassing van hierdie Konvensie, tensy die samehang anders vereis:

- (a) beteken die uitdrukking "Pakistan", wanneer in geografiese verband gebruik, Pakistan soos omskryf in die Grondwet van die Islamitiese Republiek Pakistan en sluit in enige deel buite die territoriale waters van Pakistan wat ingevolge die reg van Pakistan en die volkereg 'n deel is waarbinne Pakistan soewereine regte en uitsluitlike jurisdiksie met betrekking tot die natuurlike hulpbronne van die seebodem, die ondergrond en boliggende waters mag uitoefen; en
- (b) beteken die uitdrukking "Suid-Afrika" die Republiek van Suid-Afrika en, wanneer in geografiese verband gebruik, ook die territoriale waters daarvan asook enige deel buite die territoriale waters, met inbegrip van die kontinentale plat, wat ingevolge die reg van Suid-Afrika en ooreenkomstig die volkereg aangewys is of hierna aangewys kan word as 'n deel waarbinne Suid-Afrika soewereine regte of jurisdiksie kan uitoefen;
- (c) beteken die uitdrukking "die Kontrakterende Staat" en "die ander Kontrakterende Staat" Pakistan of Suid-Afrika, na gelang die samehang vereis;
- (d) beteken die uitdrukking "maatskappy" enige regspersoon of enige entiteit wat vir belastingdoeleindes as 'n maatskappy of regspersoon behandel word;
- (e) beteken die uitdrukking "bevoegde owerheid":
 - (i) in Pakistan, die Sentrale Raad van Inkomste of sy gemagtigde verteenwoordiger; en
 - (ii) in Suid-Afrika, die Kommissaris vir die Suid-Afrikaanse Inkomstediens of sy gemagtigde verteenwoordiger;
- (f) beteken die uitdrukking "onderneming van 'n Kontrakterende Staat" en "onderneming van die ander Kontrakterende Staat" onderskeidelik 'n onderneming bedryf deur 'n inwoner van 'n Kontrakterende Staat en 'n onderneming bedryf deur 'n inwoner van die ander Kontrakterende Staat;
- (g) beteken die uitdrukking "internasionale verkeer" enige vervoer per skip of vliegtuig bedryf deur 'n onderneming van 'n Kontrakterende Staat, behalwe wanneer die skip of vliegtuig uitsluitlik tussen plekke in die ander Kontrakterende Staat bedryf word;
- (h) beteken die uitdrukking "burger":
 - (i) 'n individu wat burgerskap of nasionaliteit van 'n Kontrakterende Staat besit;
 - (ii) 'n regspersoon of vereniging wat sy status as sodanig verkry van die wette wat in 'n Kontrakterende Staat van krag is;
- (i) beteken die uitdrukking "persoon" ook 'n individu, 'n maatskappy en enige ander liggaam van persone wat vir belastingdoeleindes as 'n entiteit behandel word; en
- (j) beteken die uitdrukking "belasting" Pakistan belasting of Suid-Afrikaanse belasting, na gelang die samehang vereis.

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

Article 4***Resident***

1. For the purposes of this Convention, the term "resident of a Contracting State" means:
 - (a) in Pakistan, any person who, under the laws of Pakistan, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, but this term does not include any person who is liable to tax in Pakistan in respect only of income from sources therein;
 - (b) in South Africa, any individual who is ordinarily resident in South Africa and any person other than an individual which has its place of effective management in South Africa;
 - (c) that State and any political subdivision or local authority thereof.
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 only 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 only 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 has not a permanent home available to him in either State, he shall be deemed to be a resident only 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 only 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 only of the State in which its place of effective management is situated.

Article 5***Permanent Establishment***

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
 - (a) a place of management;
 - (b) a branch;
 - (c) an office;
 - (d) a factory;
 - (e) a workshop;
 - (f) a warehouse;
 - (g) a sales outlet; and
 - (h) a mine, an oil or gas well, a quarry or any other place of extraction or exploitation of natural resources.

Artikel 4***Inwoner***

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

- (a) in Pakistan, 'n persoon wat, kragtens die wette van Pakistan, daarin belastingpligtig is uit hoofde van sy domisilie, verblyf, plek van bestuur of enige ander soortgelyke maatstaf, maar hierdie uitdrukking sluit nie 'n persoon in wat in Pakistan belastingpligtig is slegs ten opsigte van inkomste verkry uit bronne daarin nie;
- (b) in Suid-Afrika, 'n individu wat gewoonlik in Suid-Afrika woonagtig is en enige persoon behalwe 'n individu wat sy plek van effektiewe bestuur in Suid-Afrika het;
- (c) daardie Staat en 'n staatkundige onderverdeling of plaaslike owerheid daarvan.

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

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

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

Artikel 5***Permanente Saak***

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

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

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

3. The term "permanent establishment" likewise encompasses:
 - (a) a building site, a construction, assembly or installation project or any supervisory activity in connection with such site or project, but only where such site, project or activity continues for a period of more than six months;
 - (b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by an enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the Contracting State for a period or periods aggregating more than six months within any twelve-month period.
4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:
 - (a) the use of facilities solely for the purpose of storage or display 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 or display;
 - (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
 - (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character; and
 - (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.
6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.
7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

3. Die uitdrukking "permanente saak" omvat eweneens:

- (a) 'n bouterrein, 'n konstruksie-, monteer- of installasieprojek of enige toesighoudende bedrywigheid in verband met sodanige terrein of projek, maar slegs waar sodanige terrein, projek of bedrywigheid vir 'n tydperk van langer as ses maande voortduur;
- (b) die verskaffing van dienste, met inbegrip van konsultasiedienste, deur 'n onderneming deur werknemers of ander personeel wat deur 'n onderneming vir sodanige doel in diens geneem is, maar slegs waar bedrywigheide van daardie aard (vir dieselfde of 'n daaraan verbonde projek) binne die Kontrakterende Staat voortduur vir 'n tydperk of tydperke wat altesaam ses maande binne 'n twaalfmaandetydperk te bowe gaan.

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

- (a) die gebruik van fasiliteite slegs met die doel om goedere of handelware wat aan die onderneming behoort, op te berg of te vertoon;
- (b) die instandhouding van 'n voorraad goedere of handelware wat aan die onderneming behoort, slegs met die doel om dit op te berg of te vertoon;
- (c) die instandhouding van 'n voorraad goedere of handelware wat aan die onderneming behoort, slegs vir die doel van verwerking deur 'n ander onderneming;
- (d) die instandhouding van 'n vaste besigheidsplek slegs met die doel om vir die onderneming goedere of handelware aan te koop of inligting in te win;
- (e) die instandhouding van 'n vaste besigheidsplek slegs met die doel om enige ander bedrywigheid wat van 'n voorlopige of bykomstige aard is, vir die onderneming te beoefen; en
- (f) die instandhouding van 'n vaste besigheidsplek slegs vir 'n kombinasie van die bedrywigheide genoem in subparagrafe (a) tot (e), met dien verstande dat die algehele bedrywigheid van die vaste besigheidsplek voortspruitend uit hierdie kombinasie van 'n voorlopige of bykomstige aard is.

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

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

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

Article 6

Income from Immovable Property

1. Income derived by a resident of a Contracting State from immovable property, including income from agriculture or forestry, situated in the other Contracting State may be taxed in that other State.
2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources. Ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting or use in any other form of immovable property.
4. 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 business 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. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

Artikel 6

Inkomste uit Onroerende Eiendom

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

2. Die uitdrukking "onroerende eiendom" het die betekenis wat daaraan geheg word ingevolge die reg van die Kontrakterende Staat waarin die betrokke eiendom geleë is. Die uitdrukking sluit in ieder geval in eiendom wat bykomend by onroerende eiendom is, lewende hawe en toerusting wat in landbou en bosbou gebruik word, regte waarop die bepalings van die algemene reg betreffende vaste eiendom van toepassing is, vruggebruik van onroerende eiendom en regte op wisselende of vaste betalings as vergoeding vir die ontginning of die reg op ontginning van mineraalafsettings, bronne en ander natuurlike hulpbronne. Skepe, 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 paragrawe 1 en 3 is ook van toepassing op die inkomste uit onroerende eiendom van 'n onderneming en op inkomste uit onroerende eiendom gebruik by die verrigting van onafhanklike persoonlike dienste.

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 geheel en al onafhanklik met die onderneming waarvan hy 'n permanente saak is, sake doen.

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

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

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

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

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

Article 8

Shipping and Air Transport

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

2. Profits of an enterprise of a Contracting State from the operation of ships in international traffic may be taxed in that State. However, such profits derived from sources within the other Contracting State may also be taxed in that other State provided that the tax so charged in that other State shall be reduced by 50 per cent.

3. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic shall include profits derived from the rental on a bare boat basis of ships or aircraft used in international traffic, if such profits are incidental to the profits to which the provisions of paragraphs 1 and 2 apply.

4. The provisions of the preceding paragraphs 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,

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

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

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

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

Artikel 8

Skeepvaart en Lugvervoer

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

2. Winste van 'n onderneming van 'n Kontrakterende Staat uit die bedryf van skepe in internasionale verkeer kan in daardie Staat belas word. Sodanige winste verkry uit bronne binne die ander Kontrakterende Staat kan egter ook in daardie ander Staat belas word, met dien verstande dat die belasting aldus gehef in daardie ander Staat, met 50 persent verminder word.

3. By die toepassing van hierdie Artikel sluit winste uit die bedryf van skepe of vliegtuie in internasionale verkeer ook in winste verkry uit die verhuring op 'n "sonder bemanning"-basis van skepe of vliegtuie wat in internasionale verkeer gebruik word, indien sodanige winste bykomstig is by die winste waarop die bepalings van paragrawe 1 en 2 van toepassing is.

4. Die bepalings van die voorgaande paragrawe 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 regtreëks of onregtreëks in die bestuur van, beheer oor of kapitaal van 'n onderneming van die ander Kontrakterende Staat deel het, of
- (b) dieselfde persone regtreëks of onregtreëks in die bestuur van, beheer oor of kapitaal van 'n onderneming van 'n Kontrakterende Staat en 'n onderneming van die ander Kontrakterende Staat deel het,

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

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

Article 10

Dividends

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

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

- (a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company which holds at least 10 per cent of the capital of the company paying the dividends; or
- (b) 15 per cent of the gross amount of the dividends in all other cases.

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

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

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

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

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

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

Artikel 10

Dividende

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

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

- (a) 10 persent van die bruto bedrag van die dividende indien die bevoordeelde eienaar 'n maatskappy is wat minstens 10 persent hou van die kapitaal van die maatskappy wat die dividende betaal; of
- (b) 15 persent van die bruto bedrag van die dividende in alle ander gevalle.

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

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

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

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

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

Article 11

Interest

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

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2:

- (a) interest arising in a Contracting State shall be exempt from tax in that State if it is derived and beneficially owned by:
 - (i) the Government of the other Contracting State, or a political subdivision or a local authority thereof, or subject to the agreement of the competent authorities, any agency or instrumentality of that State or political subdivision or local authority;
 - (ii) the Central Bank of the other Contracting State;
- (b) interest arising in a Contracting State shall be exempt from tax in that State if it is beneficially owned by a resident of the other Contracting State and is derived in connection with a loan or credit extended, endorsed or guaranteed by the Government of the first-mentioned State.

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

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

5. Waar 'n maatskappy wat 'n inwoner van 'n Kontrakterende Staat is winste of inkomste uit die ander Kontrakterende Staat verkry, mag daardie ander Staat geen belasting hef op die dividende betaal deur die maatskappy nie, behalwe vir sover sodanige dividende betaal word aan 'n inwoner van daardie ander Staat of vir sover die aandeelbesit ten opsigte waarvan die dividende betaal word, effektief verbonde is met 'n permanente saak of 'n vaste basis in daardie ander Staat geleë, en mag hy ook nie die maatskappy se onuitgekeerde winste onderwerp aan belasting op onuitgekeerde winste nie, selfs al bestaan die betaalde dividende of die 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 bevoordeelde eienaar van die rente 'n inwoner van die ander Kontrakterende Staat is, is die belasting wat aldus opgelê word nie meer as 10 persent van die bruto bedrag van die rente. Die bevoegde owerhede van die Kontrakterende State besleg die wyse van toepassing van hierdie beperking deur onderlinge ooreenkoms.

3. Ondanks die bepalings van paragraaf 2:

- (a) word rente wat in 'n Kontrakterende Staat ontstaan, vrygestel van belasting in daardie Staat indien dit verkry is en voordelig besit word deur:
 - (i) die Regering van die ander Kontrakterende Staat, of 'n staatkundige onderverdeling of 'n plaaslike owerheid daarvan, of onderhewig aan instemming deur die bevoegde owerhede, enige agentskap of instrument van daardie Staat of staatkundige onderverdeling of plaaslike owerheid;
 - (ii) die Sentrale Bank van die ander Kontrakterende Staat;
- (b) rente wat in 'n Kontrakterende Staat ontstaan, is vrygestel van belasting in daardie Staat indien dit voordelig besit word deur 'n inwoner van die ander Kontrakterende Staat en verkry word in verband met 'n lening of krediet verleen, geëndosseer of gewaarborg deur die Regering van die eersgemelde Staat.

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

5. Die bepalings 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 skuldeis ten opsigte waarvan die rente betaal word, effektief verbonde is met sodanige permanente saak of vaste basis. In sodanige geval is die bepalings van Artikel 7 of Artikel 14, na gelang van die geval, van toepassing.

6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether 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 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 and Fees for Technical Services

1. Royalties or fees for technical services 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 or fees for technical services may also be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the beneficial owner of the royalties or fees for technical services is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties or fees for technical services.

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

4. The term "fees for technical services" as used in this Article means any consideration (including any lump sum consideration) for the provision or rendering of any managerial, technical or consultancy services by a resident of a Contracting State in the other Contracting State but does not include consideration for any activities mentioned in paragraph 3 of Article 5, Article 14 or Article 15.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties or fees for technical services, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties or fees for technical services 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, property or contract in respect of which the royalties or fees for technical services are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

7. Waar, vanweë 'n besondere verband tussen die betaler en die bevoordeelde eienaar of tussen albei van hulle en 'n ander persoon, die bedrag van die rente, met inagneming van die skuldeis ten opsigte waarvan dit betaal word, die bedrag te bowe gaan waaroor die betaler en die bevoordeelde eienaar by ontstentenis van sodanige verband sou ooreengekom het, is die 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 elk van die Kontrakterende State, met behoorlike inagneming van die ander bepalinge van hierdie Konvensie.

Artikel 12

Tantièmes en Gelde vir Tegniese Dienste

1. Tantièmes of gelde vir tegniese dienste 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 of gelde vir tegniese dienste kan egter ook in die Kontrakterende Staat waarin hulle ontstaan en ooreenkomstig die wette van daardie Staat belas word, maar indien die bevoordeelde eienaar van die tantièmes of gelde vir tegniese dienste 'n inwoner van die ander Kontrakterende Staat is, gaan die belasting aldus opgelê nie 10 persent van die bruto bedrag van die tantièmes of gelde vir tegniese dienste te bowe nie.

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

4. Die uitdrukking "gelde vir tegniese dienste", soos in hierdie Artikel gebesig, beteken enige vergoeding (met inbegrip van 'n enkelbedragvergoeding) vir die voorsiening of lewering van enige bestuurs-, tegniese of konsulerende dienste deur 'n inwoner van 'n Kontrakterende Staat in die ander Kontrakterende Staat, maar sluit nie vergoeding vir enige bedrywighede gemeld in paragraaf 3 van Artikel 5, Artikel 14 of Artikel 15 in nie.

5. Die bepalinge van paragrawe 1 en 2 is nie van toepassing nie indien die bevoordeelde eienaar van die tantièmes of gelde vir tegniese dienste, synde 'n inwoner van 'n Kontrakterende Staat, in die ander Kontrakterende Staat waarin die tantièmes of gelde vir tegniese dienste 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, eiendom of kontrak ten opsigte waarvan die tantièmes of gelde vir tegniese dienste betaal word, effektief verbonde is met sodanige permanente saak of vaste basis. In sodanige geval is die bepalinge van Artikel 7 of Artikel 14, na gelang van die geval, van toepassing.

6. Royalties or fees for technical services shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties or fees for technical services, 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, property or contract in respect of which the royalties or fees for technical services are paid is effectively connected, and such royalties or fees for technical services are borne by such permanent establishment or fixed base, then such royalties or fees for technical services 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 royalties or fees for technical services exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13

Capital Gains

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

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

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

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

Article 14

Independent Personal Services

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

6. Tantièmes of gelde vir tegniese dienste word geag in 'n Kontrakterende Staat te ontstaan wanneer die betaler 'n inwoner van daardie Staat is. Waar die persoon wat die tantièmes of gelde vir tegniese dienste 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 ten opsigte waarmee die reg, eiendom of kontrak ten opsigte waarvan die tantièmes of gelde vir tegniese dienste betaal word, effektief verbonde is, en sodanige tantièmes of gelde vir tegniese dienste deur sodanige permanente saak of vaste basis gedra word, word sodanige tantièmes of gelde vir tegniese dienste geag te ontstaan in die Staat waarin die permanente saak of vaste basis geleë is.

7. Waar, vanweë 'n besondere verband tussen die betaler en die bevoordeelde eienaar of tussen albei van hulle en 'n ander persoon, die bedrag van die tantièmes of gelde vir tegniese dienste, die bedrag te bowe gaan waaroor die betaler en die bevoordeelde eienaar by ontstentenis van sodanige verband sou ooreengekom het, is die bepaling van hierdie Artikel slegs op laasgenoemde bedrag van toepassing. In sodanige geval bly die oormatige deel van die betalings belasbaar ooreenkomstig die wette van elk van die Kontrakterende State, met behoorlike inagneming van die ander bepaling van hierdie Konvensie.

Artikel 13

Kapitaalwinste

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

2. Winste uit die vervreemding van roerende eiendom wat deel uitmaak van die besigheidseiendom van 'n permanente saak wat 'n onderneming van 'n Kontrakterende Staat in die ander Kontrakterende Staat het, of van roerende eiendom wat betrekking het op 'n vaste basis wat vir 'n inwoner van 'n Kontrakterende Staat in die ander Kontrakterende Staat beskikbaar is met die doel om onafhanklike persoonlike dienste te verrig, met inbegrip van sodanige winste uit die vervreemding van 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 van 'n onderneming van 'n Kontrakterende Staat uit die vervreemding van skepe of vliegtuie wat in internasionale verkeer bedryf word of roerende eiendom wat betrekking het op die bedryf van sodanige skepe of vliegtuie, is slegs in daardie Staat belasbaar.

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

Artikel 14

Onafhanklike Persoonlike Dienste

1. Inkomste verkry deur 'n individu wat 'n inwoner van 'n Kontrakterende Staat is ten opsigte van professionele dienste of ander bedrywighede van 'n onafhanklike aard, is slegs in daardie Staat belasbaar, tensy hy 'n vaste basis in die ander Kontrakterende Staat gereeld tot sy beskikking het vir die doel 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. By die toepassing van hierdie Konvensie, waar 'n individu wat 'n inwoner is van 'n Kontrakterende Staat, in die ander Kontrakterende Staat teenwoordig is vir 'n tydperk of tydperke wat altesaam 183 dae in enige twaalfmaandetydperk beginnende of eindigende in die betrokke fiskale jaar, te bowe gaan, word hy geag 'n vaste basis in daardie ander Staat gereeld tot sy beskikking te hê en die inkomste wat verkry word uit sy bedrywighede wat in daardie ander Staat verrig word, is aan daardie vaste basis toeskryfbaar.

2. Notwithstanding the provisions of paragraph 1, income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character performed in the other Contracting State, may be taxed in that other State if the remuneration for those services or activities is paid by a resident of that other State or is borne by a permanent establishment or a fixed base situated in that other State.

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

Article 15

Dependent Personal Services

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

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

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned; and
- (b) the remuneration is paid by or on behalf of an employer who is 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 by an enterprise of a Contracting State may be taxed in that State.

Article 16

Directors' Fees

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

Article 17

Entertainers and Sportspersons

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

2. Ondanks die bepalings van paragraaf 1, kan inkomste verkry deur 'n inwoner van 'n Kontrakterende Staat ten opsigte van professionele dienste of ander bedrywigheede van 'n onafhanklike aard verrig in die ander Kontrakterende Staat, in daardie ander Staat belas word indien die besoldiging vir daardie dienste of bedrywigheede betaal word deur 'n inwoner van daardie ander Staat of gedra word deur 'n permanente saak of vaste basis in daardie ander Staat geleë.

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

Artikel 15

Afhanklike Persoonlike Dienste

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

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

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

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

Artikel 17

Verhoogkunstenaars en Sportlui

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

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

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

Article 18

Pensions and Annuities

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration and annuities arising in a Contracting State and paid to a resident of the other Contracting State, may be taxed in the first-mentioned State.

2. Notwithstanding the provisions of paragraph 1, pensions and other similar payments made under the social security system of a Contracting State or a political subdivision or a local authority thereof shall be taxable only in that State.

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

Article 19

Government Service

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

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

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

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

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

3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages and similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

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

3. Inkomste verkry deur 'n inwoner van 'n Kontrakterende Staat uit bedrywighede beoefen in die ander Kontrakterende Staat soos beoog in paragrafe 1 en 2 van hierdie Artikel, is vrygestel van belasting in daardie ander Staat indien die besoek aan daardie ander Staat geheel en al of hoofsaaklik ondersteun word deur openbare fondse van die eersgemelde Kontrakterende Staat, 'n staatkundige onderverdeling of 'n plaaslike owerheid daarvan, of plaasvind ingevolge 'n kulturele ooreenkoms of reëling tussen die Regerings van die Kontrakterende State.

Artikel 18

Pensioene en Annuïteite

1. Behoudens die bepalings van paragraaf 2 van Artikel 19 kan pensioene en ander soortgelyke besoldiging en annuïteite wat in 'n Kontrakterende Staat ontstaan en aan 'n inwoner van die ander Kontrakterende Staat betaal word, in eersgenoemde Staat belas word.

2. Ondanks die bepalings van paragraaf 1 is pensioene en ander soortgelyke betalings gedoen ingevolge die bestaansbeveiligingstelsel van 'n Kontrakterende Staat of 'n staatkundige onderverdeling of 'n plaaslike owerheid daarvan, slegs in daardie Staat belasbaar.

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

Artikel 19

Regeringsdiens

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

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

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

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

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

3. Die bepalings van Artikels 15, 16, 17 en 18 is van toepassing op salarisse, lone en soortgelyke besoldiging, en op pensioene, ten opsigte van dienste gelewer in verband met 'n besigheid wat deur 'n Kontrakterende Staat of 'n staatkundige onderverdeling of 'n plaaslike owerheid daarvan gedryf word.

Article 20

Students, Apprentices and Trainees

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

Article 21

Other Income

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

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

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

Article 22

Elimination of Double Taxation

1. Double taxation shall be eliminated as follows:

- (a) in Pakistan, where a resident of Pakistan derives income which, in accordance with the provisions of this Convention, may be taxed in South Africa, Pakistan shall allow as a deduction from the tax on the income of that resident, an amount equal to the South African tax paid. Such deduction shall not, however, exceed that part of the tax on income, as computed before the deduction is given, which is attributable to the income which may be taxed in South Africa;
- (b) in South Africa, Pakistan tax paid by residents of South Africa in respect of income taxable in Pakistan, in accordance with the provisions of this Convention, shall be deducted from the taxes due according to South African fiscal law. Such deduction shall not, however, exceed an amount which bears to the total South African tax payable the same ratio as the income concerned bears to the total income.

2. For the purposes of paragraph 1 of this Article, the terms "Pakistan tax paid" and "South African tax paid" shall be deemed to include the amount of tax which would have been paid in Pakistan or South Africa, as the case may be, but for an exemption or reduction granted in accordance with laws designed to promote economic development in that Contracting State.

Artikel 20***Studente, Vakleerlinge en Besigheidsleerlinge***

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

Artikel 21***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 bepalinge 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 met sodanige permanente saak of vaste basis verbonde is. In sodanige geval is die bepalinge van Artikel 7 of Artikel 14, na gelang van die geval, van toepassing.

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

Artikel 22***Uitskakeling van Dubbele Belasting***

1. Dubbele belasting word soos volg uitgeskakel:

- (a) in Pakistan, waar 'n inwoner van Pakistan inkomste verkry wat, ooreenkomstig die bepalinge van hierdie Konvensie, in Suid-Afrika belas kan word, laat Pakistan as 'n aftrekking van belasting op die inkomste van daardie inwoner, 'n bedrag gelyk aan die Suid-Afrikaanse belasting betaal, toe. Sodanige aftrekking mag egter nie daardie deel van die belasting op inkomste te bowe gaan, soos bereken voor die aftrekking toegestaan word, wat toeskryfbaar is aan die inkomste wat in Suid-Afrika belas kan word nie;
- (b) in Suid-Afrika word Pakistan belasting betaal deur inwoners van Suid-Afrika ten opsigte van inkomste wat in Pakistan belasbaar is in ooreenstemming met die bepalinge van hierdie Konvensie, afgetrek van die belastinge verskuldig ingevolge Suid-Afrikaanse fiskale reg. Sodanige aftrekking gaan egter nie 'n bedrag wat in dieselfde verhouding tot die totale Suid-Afrikaanse belasting betaalbaar staan as die verhouding waarin die betrokke inkomste tot die totale inkomste staan, te bowe nie.

2. Vir doeleindes van paragraaf 1 van hierdie Artikel word die uitdrukkings "Pakistan belasting betaal" en "Suid-Afrikaanse belasting betaal" geag in te sluit die belastingbedrag wat in Pakistan of Suid-Afrika betaal sou gewees het, na gelang van die geval, indien die belasting nie vrygestel of verminder was nie ooreenkomstig wette wat opgestel is om ekonomiese ontwikkeling in daardie Kontrakterende Staat te bevorder.

3. A grant given by a Contracting State or a political subdivision thereof to a resident of the other Contracting State in accordance with laws designed to promote economic development in that first-mentioned State, shall not be taxable in the other State.

Article 23

Non-discrimination

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

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

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

4. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11 or paragraph 7 of Article 12 apply, interest, royalties, fees for technical services 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.

Article 24

Mutual Agreement Procedure

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

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

3. 'n Toekenning toegestaan deur 'n Kontrakterende Staat of 'n staatkundige onderverdeling daarvan aan 'n inwoner van die ander Kontrakterende Staat ooreenkomstig wette om ekonomiese ontwikkeling in daardie eersgemelde Staat te bevorder, is nie in die ander Staat belasbaar nie.

Artikel 23

Nie-diskriminasie

1. Burgers van 'n Kontrakterende Staat mag nie in die ander Kontrakterende Staat onderwerp word aan enige belasting of enige vereiste in verband daarmee wat anders is of swaarder druk as die belasting en die daarmee verbonde vereistes waaraan burgers van daardie ander Staat onder dieselfde omstandighede, in die besonder met betrekking tot verblyf, 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. 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 eersgemelde Staat onderworpe is of onderwerp kan word nie.

4. Behalwe waar die bepalings van paragraaf 1 van Artikel 9, paragraaf 7 van Artikel 11 of paragraaf 7 van Artikel 12 van toepassing is, is rente, tantièmes, gelde vir tegniese dienste en ander uitbetalings betaal deur 'n onderneming van 'n Kontrakterende Staat aan 'n inwoner van die ander Kontrakterende Staat, vir doeleindes van die vasstelling van die belasbare winste van sodanige onderneming, onder dieselfde voorwaardes aftrekbaar asof dit aan 'n inwoner van eersgenoemde Staat betaal was.

Artikel 24

Prosedure vir Onderlinge Ooreenkoms

1. Waar 'n persoon van mening is dat die optrede van een van of van beide die Kontrakterende State tot gevolg het of tot gevolg sal hê dat hy nie ooreenkomstig hierdie Konvensie belas word nie, kan hy, ongeag die regsmiddels waarvoor die landsreg van daardie State voorsiening maak, sy saak stel aan die bevoegde owerheid van die Kontrakterende Staat waarvan hy 'n inwoner is of, indien sy saak onder paragraaf 1 van Artikel 23 ressorteer, aan dié van die Kontrakterende Staat waarvan hy 'n burger is. Die saak moet gestel word binne twee jaar vanaf die eerste kennisgewing van die handeling wat lei tot belasting wat nie in ooreenstemming met die bepalings van die Konvensie is nie.

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

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

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. The competent authorities, through consultations, shall develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure provided for in this Article.

Article 25

Exchange of Information

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

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

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

Article 26

Members of Diplomatic Missions and Consular Posts

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

Article 27

Entry into Force

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

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

4. Die bevoegde owerhede van die Kontrakterende State kan regstreeks met mekaar in verbinding tree ten einde tot 'n ooreenkoms te geraak soos in die voorgaande paragrawe beoog. Deur middel van oorlegpleging moet die bevoegde owerhede geskikte bilaterale prosedures, voorwaardes, metodes en tegnieke ontwikkel vir die implementering van die onderlingeooreenkomsprosedures, waarvoor hierdie Artikel voorsiening maak.

Artikel 25

Uitruil van Inligting

1. Die bevoegde owerhede van die Kontrakterende State ruil sodanige inligting uit as wat nodig is vir die uitvoering van die bepalings van hierdie Konvensie of van die landsreg van die Kontrakterende State aangaande belasting deur die Konvensie gedek vir sover die belasting daarkragtens nie strydig met die Konvensie is nie. Die uitruil van inligting word nie deur Artikel 1 beperk nie. Enige inligting ontvang deur 'n Kontrakterende Staat word as geheim behandel op dieselfde wyse as inligting wat ingevolge die landsreg van daardie Staat verkry word, en mag openbaar gemaak word slegs 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 appèlle in verband met, die belasting deur die Konvensie gedek. Sodanige persone of owerhede mag die inligting slegs vir sodanige doeleindes gebruik. Hulle kan die inligting by openbare hofverrigtinge of by regterlike beslissings openbaar maak.

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

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

Artikel 26

Lede van Diplomatieke Missies en Konsulêre Poste

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

Artikel 27

Inwerkingtreding

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

2. The provisions of the Convention shall apply:

(a) in Pakistan:

- (i) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of July next following the date upon which the Convention enters into force; and
- (ii) with regard to other taxes, in respect of taxable years beginning on or after the first day of July next following the date upon which the Convention enters into force;

(b) in South Africa:

- (i) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of January next following the date upon which the Convention enters into force; and
- (ii) with regard to other taxes, in respect of taxable years beginning on or after the first day of January next following the date upon which the Convention enters into force.

Article 28

Termination

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

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

(a) in Pakistan:

- (i) 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
- (ii) with regard to other taxes, in respect of taxable years beginning after the end of the calendar year in which such notice is given;

(b) in South Africa:

- (i) 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
- (ii) 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 Pretoria in duplicate, this 26th day of January 1998.

FOR THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA

FOR THE GOVERNMENT OF THE
ISLAMIC REPUBLIC OF PAKISTAN

2. Die bepalinge van die Konvensie is van toepassing:

(a) in Pakistan:

- (i) met betrekking tot belastinge wat by die bron teruggehou word, ten opsigte van bedrae betaal of gekrediteer op of na die eerste dag van Julie eersvolgende op die datum waarop die Konvensie in werking tree; en
- (ii) met betrekking tot ander belastinge, vir enige belasbare jare beginnende op of na die eerste dag van Julie eersvolgende op die datum waarop die Konvensie in werking tree;

(b) in Suid-Afrika:

- (i) met betrekking tot belastinge wat by die bron teruggehou word, ten opsigte van bedrae betaal of gekrediteer op of na die eerste dag van Januarie eersvolgende op die datum waarop die Konvensie in werking tree; en
- (ii) met betrekking tot ander belastinge, ten opsigte van belasbare jare beginnende op of na die eerste dag van Januarie eersvolgende op die datum waarop die Konvensie in werking tree.

Artikel 28

Opsegging

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

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

(a) in Pakistan:

- (i) 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 kennis gegee word; en
- (ii) met betrekking tot ander belastinge, ten opsigte van belasbare jare beginnende na die einde van die kalenderjaar waarin sodanige kennis gegee word;

(b) in Suid-Afrika:

- (i) 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 kennis gegee word; en
- (ii) met betrekking tot ander belastinge, ten opsigte van belasbare jare beginnende na die einde van die kalenderjaar waarin sodanige kennis gegee word.

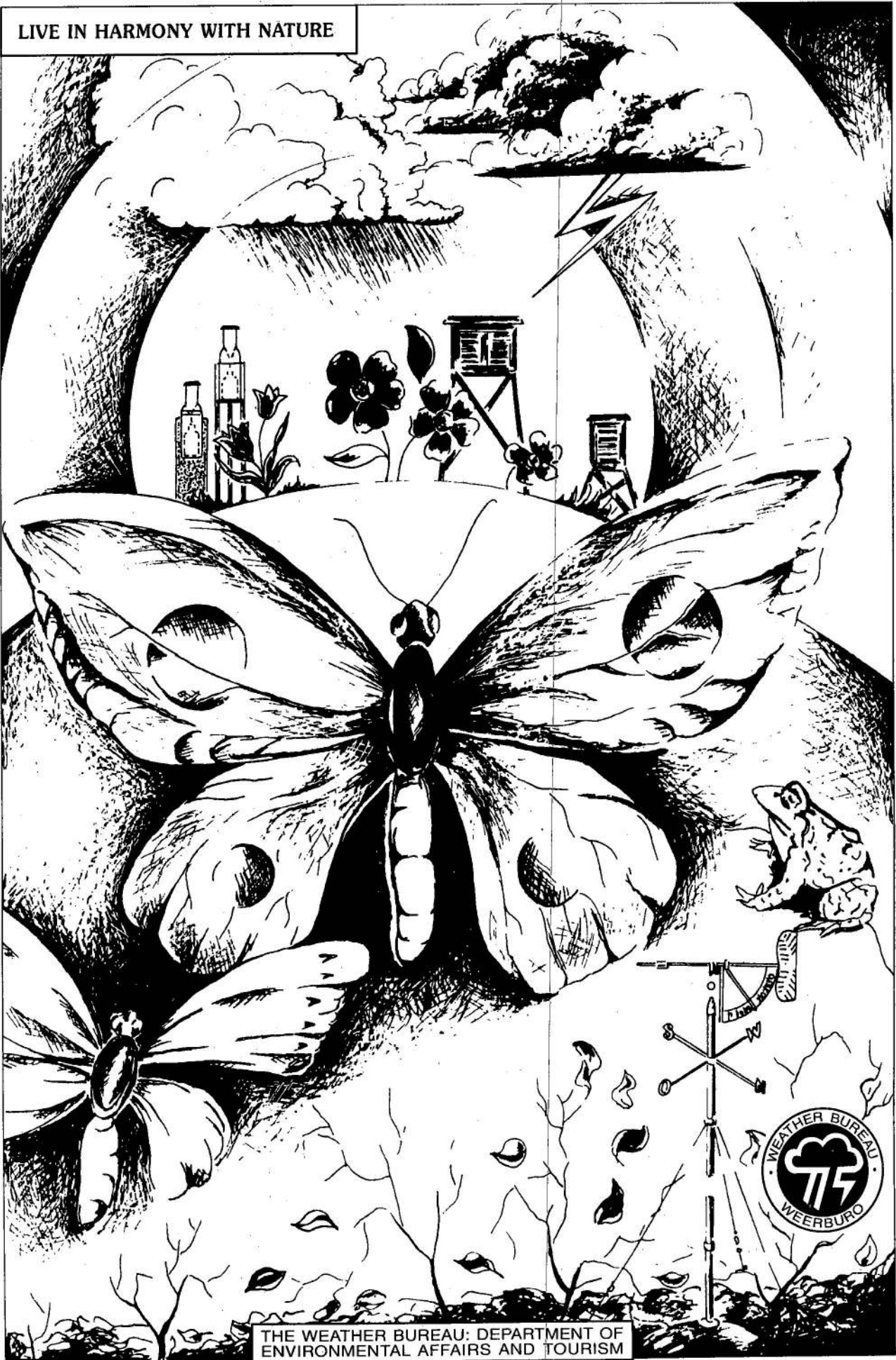
TEN BEWYSE WAARVAN die ondergetekendes, synde behoorlik daartoe gemagtig, hierdie Konvensie onderteken het.

GEDOEN in tweevoud, te Pretoria op hede die 26ste dag van Januarie 1998.

NAMENS DIE REGERING VAN DIE
REPUBLIEK VAN SUID-AFRIKA

NAMENS DIE REGERING VAN DIE
ISLAMITIESE REPUBLIEK PAKISTAN

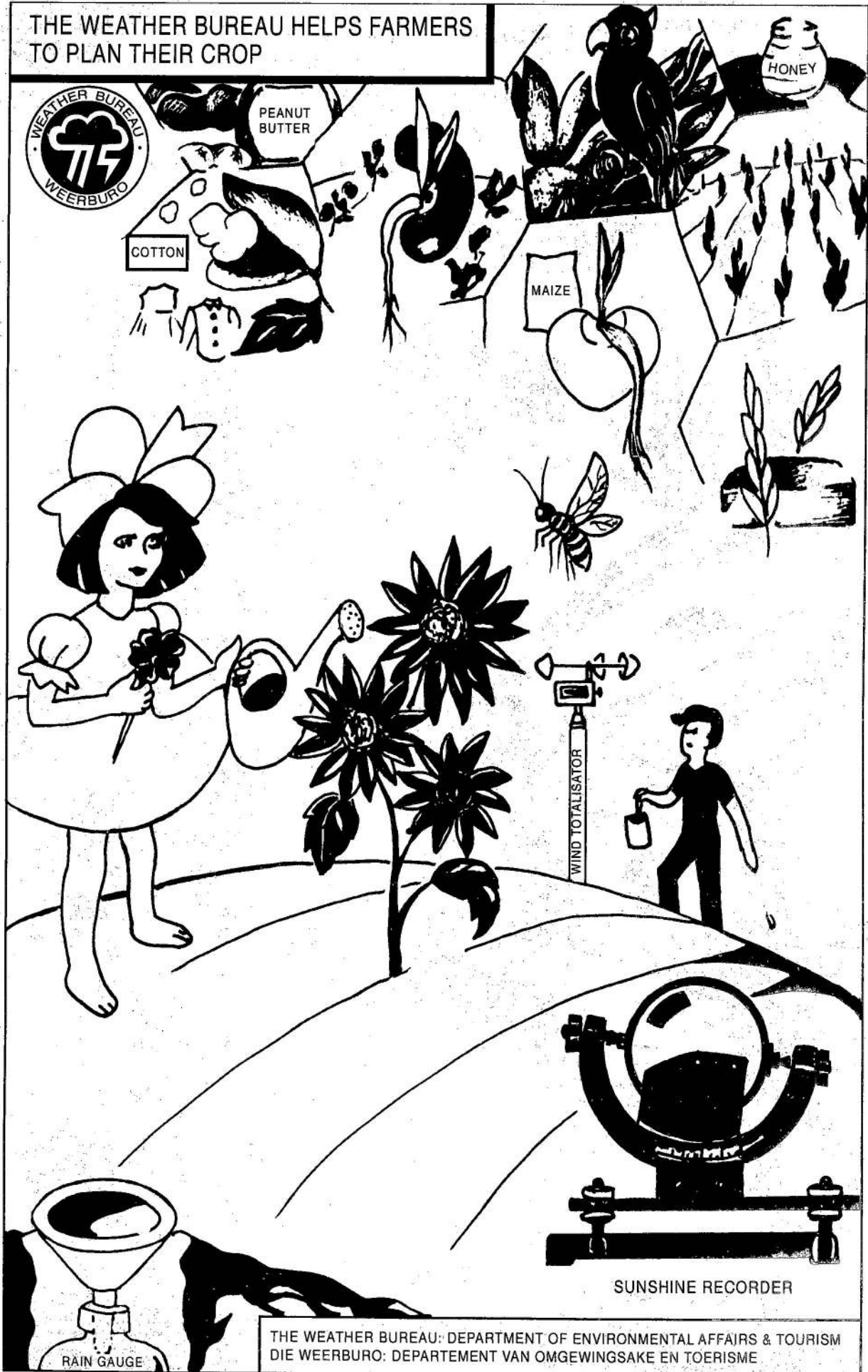
LIVE IN HARMONY WITH NATURE



THE WEATHER BUREAU: DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM



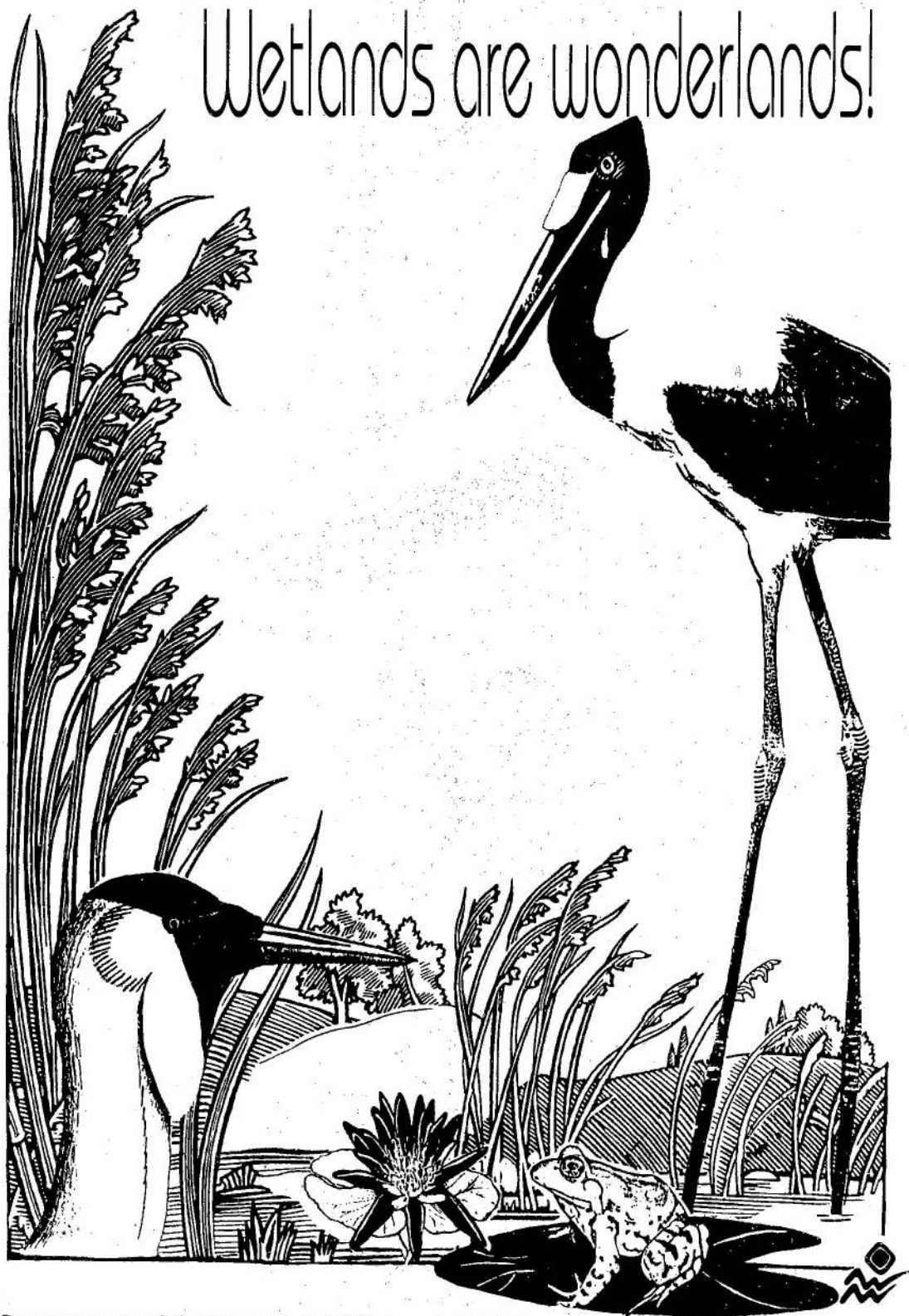
THE WEATHER BUREAU HELPS FARMERS TO PLAN THEIR CROP



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

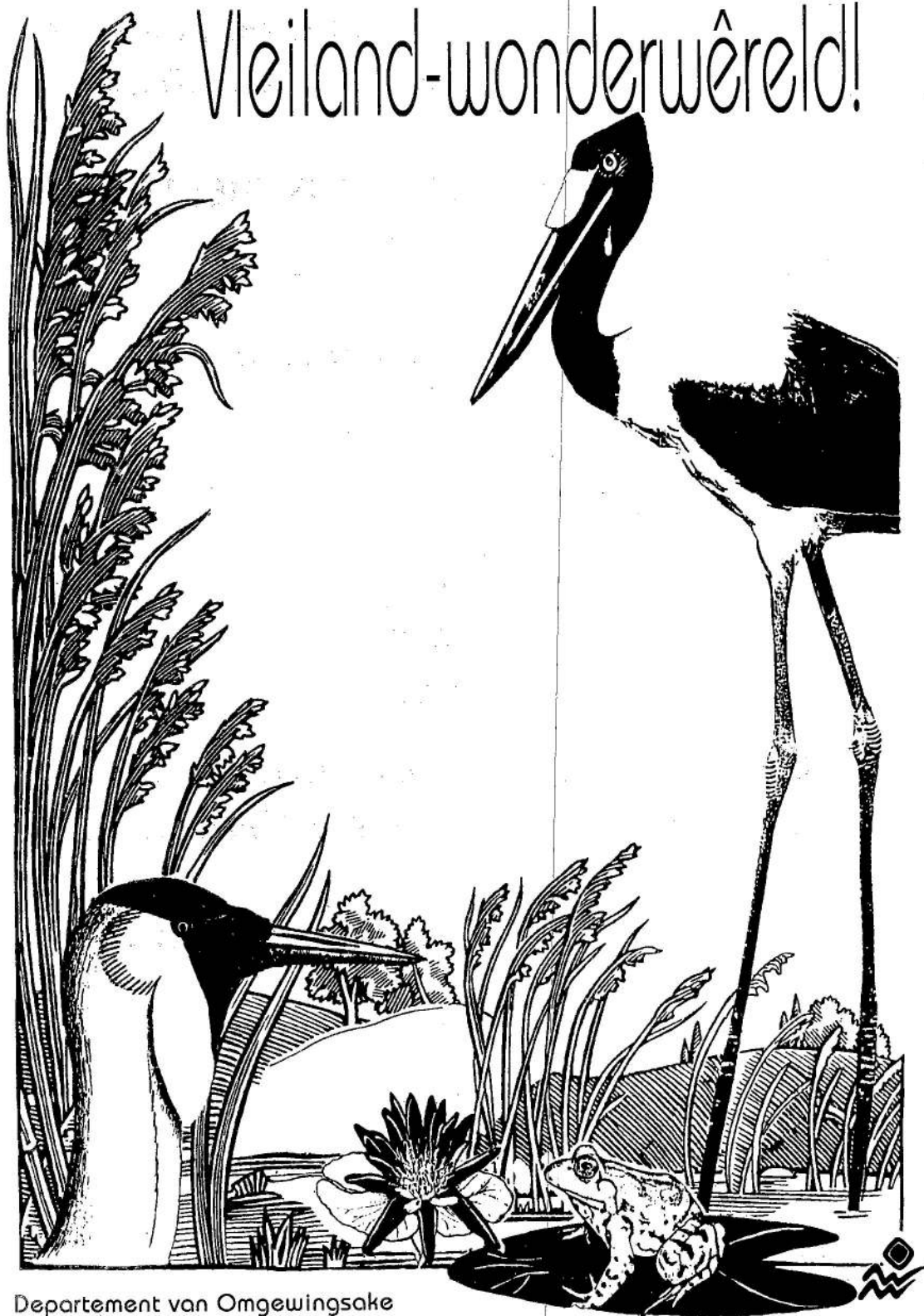


Wetlands are wonderlands!



Department of Environmental Affairs and Tourism

Vleiland-wonderwêreld!



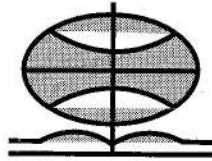
Departement van Omgewingsake

*Looking for back copies and out of print issues of
the Government Gazette and Provincial Gazettes?*

The State Library has them!

Let us make your day with the information you need ...

The State Library Reference and Information Service
PO Box 397
0001 PRETORIA
Tel./Fax (012) 321-8931
E-mail: infodesk@statelib.pwv.gov.za



*Soek u ou kopieë en uit druk uitgawes van die
Staatskoerant en Provinsiale Koerante?*

Die Staatsbiblioteek het hulle!

Met ons hoef u nie te sukkel om inligting te bekom nie ...

Die Staatsbiblioteek Naslaan- en Inligtingdiens
Posbus 397
0001 PRETORIA
Tel./Faks (012) 321-8931
E-pos: infodesk@statelib.pwv.gov.za

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>		
350			350		
Income Tax Act (58/1962): Convention between the Republic of South Africa and the Islamic Republic of Pakistan for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.....			Inkomstebelastingwet (58/1962): Konvensie tussen die Republiek van Suid-Afrika en die Islamitiese Republiek Pakistan vir die vermyding van dubbele belasting en die voorkoming van fiskale ontduiking met betrekking tot belasting op inkomste.....		
	1	19849		1	19849