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GOVERNMENT NOTICE**SOUTH AFRICAN REVENUE SERVICE****No. 38****15 January 2004****INCOME TAX ACT, 1962****AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND THE GOVERNMENT OF THE SULTANATE OF OMAN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME**

In terms of section 108(2) of the Income Tax Act, 1962 (Act No 58 of 1962), read in conjunction with section 231(4) of the Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996), it is hereby notified that the Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income set out in the Schedule to this Notice has been entered into with the Government of the Sultanate of Oman 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 26 of the Agreement, that the date of entry into force is 29 December 2003.

GOEWERMENSKENNISGEWING

SUID-AFRIKAANSE INKOMSTEDIENS**No. 38****15 Januarie 2004****INKOMSTEBELASTINGWET, 1962****OOREENKOMS TUSSEN DIE REGERING VAN DIE REPUBLIEK VAN SUID-AFRIKA EN DIE REGERING VAN DIE SULTANAAT OMAN 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 Ooreenkoms 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 Sultanaat Oman en deur die Parlement goedgekeur is ingevolge artikel 231(2) van die Grondwet.

Daar word verder bekendgemaak dat ingevolge paragraaf 1 van Artikel 26 van die Ooreenkoms, die datum van inwerkingtreding 29 Desember 2003 is.

**AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND
THE GOVERNMENT OF THE SULTANATE OF OMAN 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 Sultanate of Oman desiring to conclude an Agreement 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 Agreement shall apply to persons who are residents of one or both of the Contracting States.

Article 2

Taxes Covered

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

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

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

(a) in South Africa:

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

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

OOREENKOMS TUSSEN DIE REGERING VAN DIE REPUBLIEK VAN SUID-AFRIKA EN DIE REGERING VAN DIE SULTANAAT OMAN 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 Sultanaat Oman, begerig om 'n Ooreenkoms te sluit vir die vermyding van dubbele belasting en die voorkoming van fiskale ontduiking met betrekking tot belastings op inkomste en om die ekonomiese bande tussen die twee lande te bevorder en te versterk,

Kom soos volg ooreen:

Artikel 1

Persone Gedek

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

Artikel 2

Belastings Gedek

1. Hierdie Ooreenkoms is van toepassing op belastings op inkomste opgelê namens 'n Kontrakterende Staat of namens sy staatkundige onderafdelings of plaaslike owerhede, ongeag die wyse waarop dit gehef word.

2. Alle belastings opgelê op totale inkomste, of op elemente van inkomste, met inbegrip van belastings op winste uit die vervreemding van roerende of onroerende eiendom, word geag belastings op inkomste te wees.

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

(a) in Suid-Afrika:

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

(hierna "Suid-Afrikaanse belasting" genoem);

- (b) in the Sultanate of Oman:
 - (i) the company income tax imposed under Royal Decree No. 47/1981 as amended;
 - (ii) the profit tax on commercial and industrial establishments imposed under Royal Decree No. 77/1989 as amended;

(hereinafter referred to as "Omani tax").

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

Article 3

General Definitions

1. For the purposes of this Agreement, unless the context otherwise requires:
 - (a) 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;
 - (b) the term "the Sultanate of Oman" means the territory of the Sultanate of Oman and the islands belonging thereto, including the territorial waters and any area outside the territorial waters over which the Sultanate of Oman may, in accordance with international law and the laws of the Sultanate of Oman, exercise sovereign rights with respect to the exploration and exploitation of the natural resources of the seabed and the sub-soil and the superjacent waters;
 - (c) the terms "a Contracting State" and "the other Contracting State" mean South Africa or the Sultanate of Oman, as the context requires;
 - (d) the term "business" includes the performance of professional services and of other activities of an independent character;
 - (e) the term "person" includes an individual, a company, a body of persons and any other entity that is treated as a taxable unit under the taxation laws in force in the respective Contracting States;
 - (f) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - (g) the term "enterprise" applies to the carrying on of any business;

- (b) in die Sultanaat Oman:
- (i) die maatskappy-inkomstebelasting opgelê kragtens Koninklike Dekreet No. 47/1981, soos gewysig;
 - (ii) die winsbelasting op kommersiële en industriële sake opgelê kragtens Koninklike Dekreet No. 77/1989, soos gewysig;
- (hierna "Omaanse belasting" genoem).

4. Die Ooreenkoms is ook van toepassing op enige identiese of wesenlik soortgelyke belasting wat benewens, of in plaas van, die bestaande belasting deur enigen van die Kontrakterende State opgelê word ná die datum van ondertekening van die Ooreenkoms. Die bevoegde owerhede van die Kontrakterende State moet mekaar binne 'n redelike tydperk nadat enige noemenswaardige veranderinge aan hulle onderskeie belastingwette aangebring is, van sodanige veranderinge in kennis stel.

Artikel 3

Algemene Woordomsrywings

1. By die toepassing van hierdie Ooreenkoms, tensy die samehang anders vereis:
 - (a) beteken die uitdrukking "Suid-Afrika" die Republiek van Suid-Afrika en, wanneer in geografiese verband gebruik, ook die territoriale waters daarvan en enige gebied 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 word as 'n gebied waarbinne Suid-Afrika soewereine regte of jurisdiksie mag uitoefen;
 - (b) beteken die uitdrukking "die Sultanaat Oman" die grondgebied van die Sultanaat Oman en die eilande wat daartoe behoort, met inbegrip van die gebiedswaters en enige gebied buite die gebiedswaters waaroor die Sultanaat Oman, ooreenkomstig die volkereg en die reg van die Sultanaat Oman, soewereine regte met betrekking tot die eksplorاسie en eksploitering van die natuurlike hulpbronne van die seebodem en ondergrond en die boliggende waters mag uitoefen;
 - (c) beteken die uitdrukking "n Kontrakterende Staat" en "die ander Kontrakterende Staat" Suid-Afrika of die Sultanaat Oman, na gelang die samehang vereis;
 - (d) sluit die uitdrukking "besigheid" die uitvoering van professionele dienste en van ander bedrywighede van 'n onafhanklike aard in;
 - (e) sluit die uitdrukking "persoon" 'n individu, 'n maatskappy, 'n liggaam van persone en enige ander entiteit in wat as 'n belasbare eenheid kragtens die belastingwette van krag in die onderskeie Kontrakterende State behandel word;
 - (f) beteken die uitdrukking "maatskappy" 'n regspersoon of 'n entiteit wat vir belastingdoeleindes as 'n regspersoon behandel word;
 - (g) het die uitdrukking "onderneming" betrekking op die dryf van 'n besigheid;

- (h) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (i) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (j) the term "national" means:
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) any legal person or association deriving its status as such from the laws in force in a Contracting State;
- (k) the term "competent authority" means:
 - (i) in South Africa, the Commissioner for the South African Revenue Service or an authorised representative;
 - (ii) in the Sultanate of Oman, the Minister of National Economy and Supervisor of the Ministry of Finance or an authorised representative;
- (l) the term "tax" means Omani tax or South African tax, as the context requires, but shall not include any amount which is payable in respect of any default or omission in relation to the taxes to which the Agreement applies or which represents a penalty imposed relating to those taxes.

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

Article 4

Resident

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that Contracting State, is liable to tax therein by reason of that person's domicile, residence, place of management, place of registration or any other criterion of a similar nature, and also includes that Contracting State and any political subdivision or local authority thereof.

- (h) beteken die uitdrukkings "onderneming van 'n Kontrakterende Staat" en "onderneming van die ander Kontrakterende Staat" onderskeidelik 'n onderneming gedryf deur 'n inwoner van 'n Kontrakterende Staat en 'n onderneming gedryf deur 'n inwoner van die ander Kontrakterende Staat;
- (i) beteken die uitdrukking "internasionale verkeer" enige vervoer per skip of vliegtuig bedryf deur 'n onderneming van 'n Kontrakterende Staat, behalwe wanneer die skip of vliegtuig slegs tussen plekke in die ander Kontrakterende Staat bedryf word;
- (j) beteken die uitdrukking "burger":
 - (i) 'n individu wat burgerskap van 'n Kontrakterende Staat het;
 - (ii) 'n regspersoon of vereniging wat sy status as sodanig verkry uit die reg wat in 'n Kontrakterende Staat van krag is;
- (k) beteken die uitdrukking "bevoegde owerheid":
 - (i) in Suid-Afrika, die Kommissaris van die Suid-Afrikaanse Inkomstediens of 'n gemagtigde verteenwoordiger;
 - (ii) in die Sultanaat Oman, die Minister van Nasionale Ekonomie en Toesighouer van die Ministerie van Finansies of 'n gemagtigde verteenwoordiger;
- (l) beteken die uitdrukking "belasting" Omaanse belasting of Suid-Afrikaanse belasting, na gelang die samehang vereis, maar nie ook enige bedrag wat betaalbaar is ten opsigte van enige versuim of weglating met betrekking tot die belastings waarop die Ooreenkoms van toepassing is of wat 'n boete aangaande daardie belastings verteenwoordig nie.

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

Artikel 4

Inwoner

1. Vir doeleindes van hierdie Ooreenkoms beteken die uitdrukking "inwoner van 'n Kontrakterende Staat" enige persoon wat kragtens die wette van daardie Kontrakterende Staat daarin belastingplichtig is uit hoofde van daardie persoon se domisilie, verblyf, plek van bestuur, plek van registrasie of enige ander soortgelyke kriterium, en sluit dit daardie Kontrakterende Staat en enige staatkundige onderafdeling of plaaslike owerheid daarvan in.

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

- (a) the individual shall be deemed to be a resident only of the Contracting State in which a permanent home is available to the individual; if a permanent home is available to the individual in both Contracting States, the individual shall be deemed to be a resident only of the Contracting State with which the individual's personal and economic relations are closer (centre of vital interests);
- (b) if the individual's status cannot be determined under the provisions of subparagraph (a), the individual shall be deemed to be a resident only of the Contracting State in which the individual has an habitual abode;
- (c) if the individual has an habitual abode in both Contracting States or in neither of them, the individual shall be deemed to be a resident only of the Contracting State of which the individual is a national;
- (d) if the status of the resident cannot be determined by reason of subparagraphs (a) to (c) in that sequence, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 of this Article 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 Contracting State in which its place of effective management is situated.

Article 5

Permanent Establishment

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of 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 mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

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;

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

- (a) die individu word geag 'n inwoner te wees slegs van die Kontrakterende Staat waarin 'n permanente tuiste tot die individu se beskikking is; indien 'n permanente tuiste in albei Kontrakterende State tot beskikking van die individu is, word die individu geag 'n inwoner te wees slegs van die Kontrakterende Staat waarmee die individu se persoonlike en ekonomiese betrekkinge die nouste is (tuiste van lewensbelange);
- (b) indien die individu se status nie ingevolge die bepalings van subparagraaf (a) bepaal kan word nie, word die individu geag 'n inwoner te wees slegs van die Kontrakterende Staat waarin die individu 'n gebruikelike verblyfplek het;
- (c) indien die individu 'n gebruikelike verblyfplek in albei Kontrakterende State het, of in geeneen van hulle nie, word die individu geag 'n inwoner te wees slegs van die Kontrakterende Staat waarvan die individu 'n burger is;
- (d) indien die status van die inwoner nie uit hoofde van subparagrafe (a) tot (c), in daardie volgorde, bepaal kan word nie, beslis die bevoegde owerhede van die Kontrakterende State die saak deur middel van onderlinge ooreenkoms.

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

Artikel 5

Permanente Saak

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

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

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

3. Eweneens omvat die uitdrukking "permanente saak":

- (a) 'n bouterrein, 'n konstruksie-, monteer- of installasieprojek of enige toesighoudende bedrywigheid met betrekking tot sodanige terrein of projek, maar slegs waar sodanige terrein, projek of bedrywigheid vir 'n tydperk van langer as ses maande voortduur;

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

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

- (a) the use of facilities solely for the purpose of storage 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;
- (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 of this Article, where a person, other than an agent of an independent status to whom paragraph 6 of this Article applies, is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such person:

- (a) has and habitually exercises in that Contracting State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 of this Article 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; or

- (b) die lewering van dienste, met inbegrip van konsultasiedienste, deur 'n onderneming deur middel van werknemers of ander personeel wat deur 'n onderneming vir sodanige doel in diens geneem word, maar slegs waar bedrywighede van daardie aard (vir dieselfde of 'n daaraan verbonde projek) binne die Kontrakterende Staat voortduur vir 'n tydperk of tydperke wat altesaam negentig dae binne enige tydperk van twaalf maande, beginnende of eindigende in die betrokke fiskale jaar, te bowe gaan;
- (c) die verrigting van professionele dienste of ander bedrywighede van 'n onafhanklike aard deur 'n individu, maar slegs waar daardie dienste of bedrywighede binne 'n Kontrakterende Staat voortduur vir 'n tydperk of tydperke wat altesaam negentig dae in enige tydperk van twaalf maande, beginnende of eindigende in die betrokke fiskale jaar, te bowe gaan.

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

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

5. Ondanks die bepalings van paragrafe 1 en 2 van hierdie Artikel, waar 'n persoon, uitgesonderd 'n agent met onafhanklike status op wie paragraaf 6 van hierdie Artikel van toepassing is, in 'n Kontrakterende Staat namens 'n onderneming van die ander Kontrakterende Staat optree, word daardie onderneming geag 'n permanente saak in die eersgenoemde Kontrakterende Staat te hê ten opsigte van enige bedrywighede wat daardie persoon vir die onderneming onderneem, indien sodanige persoon:

- (a) magtiging het, en dit gewoonlik uitoefen, om in daardie Kontrakterende Staat kontrakte in die naam van die onderneming te sluit, tensy die bedrywighede van sodanige persoon beperk is tot dié genoem in paragraaf 4 van hierdie Artikel wat, indien dit deur middel van 'n vaste besigheidsplek uitgeoefen sou word, nie hierdie vaste besigheidsplek ingevolge die bepalings van daardie paragraaf 'n permanente saak sou maak nie; of

- (b) has no such authority, but habitually maintains in the first-mentioned Contracting State a stock of goods or merchandise from which such person delivers goods or merchandise on behalf of the enterprise.

6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other Contracting 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 Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6

Income from Immovable Property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other Contracting 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 (including the breeding and cultivation of fish) and forestry, and rights to which the provisions of general law respecting landed property apply. Usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources shall also be considered as "immovable property". Ships, boats and aircraft shall not be regarded as immovable property.

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

4. The provisions of paragraphs 1 and 3 of this Article shall also apply to the income from immovable property of an enterprise.

Article 7

Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that Contracting 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 Contracting State but only so much of them as is attributable to that permanent establishment.

- (b) geen sodanige magtiging het nie, maar gewoonlik in die eersgenoemde Kontrakterende Staat 'n voorraad goedere of handelsware in stand hou waaruit sodanige persoon namens die onderneming goedere of handelsware aflewer.

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

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

Artikel 6

Inkomste uit Onroerende Eiendom

1. Inkomste deur 'n inwoner van 'n Kontrakterende Staat verkry uit onroerende eiendom (met inbegrip van inkomste uit landbou of bosbou) wat geleë is in die ander Kontrakterende Staat, 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 bykomstig by onroerende eiendom, lewende hawe en toerusting wat in landbou (met inbegrip van die teel en kweek van vis) en bosbou gebruik word, en regte waarop die bepalinge van die algemene reg betreffende grondbesit van toepassing is. Vruggebruik van onroerende eiendom en regte op wisselende of vaste betalings as vergoeding vir die ontginning of die reg op die ontginning van mineraalafsettings, bronne en ander natuurlike hulpbronne word ook as "onroerende eiendom" beskou. Skepe, bote en vliegtuie word nie as onroerende eiendom beskou nie.

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

4. Die bepalinge van paragrawe 1 en 3 van hierdie Artikel is ook van toepassing op inkomste uit onroerende eiendom van 'n onderneming.

Artikel 7

Besigheidswinste

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

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

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

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

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

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

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

Article 8

Shipping and Air Transport

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

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

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

4. Vir sover dit in 'n Kontrakterende Staat gebruikelik is om die winste wat aan 'n permanente saak toegeskryf moet word, vas te stel op die grondslag van 'n toedeling van die totale winste van die onderneming aan sy onderskeie dele, belet niks in paragraaf 2 van hierdie Artikel daardie Kontrakterende Staat om die winste wat belas moet word, deur sodanige toedeling as wat gebruikelik 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. Vir doeleindes van die voorgaande paragrawe word die winste wat aan die permanente saak toegeskryf moet word, jaar na jaar volgens dieselfde metode vasgestel, tensy daar goeie en afdoende rede vir die teendeel is.

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

Artikel 8

Skeepvaart en Lugvervoer

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

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

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

if such profits are incidental to the operation of ships or aircraft in international traffic.

3. For the purposes of this Article, interest on funds directly connected with the operation of ships or aircraft in international traffic shall be regarded as income or profits derived from the operation of such ships or aircraft, and the provisions of Article 11 shall not apply in relation to such interest.

4. The provisions of paragraphs 1, 2 and 3 of this Article shall also apply to profits derived from the participation in a pool, a joint business or an international operating agency.

5. The term "operation of ships or aircraft" means the business of transportation by sea or by air of passengers, mail, livestock or goods carried on by the owners, lessees or charterers of ships or aircraft, including the sale of tickets for such transportation on behalf of other enterprises, the incidental lease of ships or aircraft and any other activity, which the competent authorities mutually agree, is directly connected with such transportation.

6. With respect to profits derived by Gulf Air, the provisions of paragraphs 1, 2 and 3 of this Article shall apply only to the part of those profits which is attributable under its constitutive contract to the Government of the Sultanate of Oman.

Article 9

Associated Enterprises

1. Where

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

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

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

- (a) winste uit die verhuring op 'n sonder-bemanning-basis van skepe of vliegtuie;
- (b) winste uit die gebruik, instandhouding of verhuring van houters (met inbegrip van treilers en verwante toerusting vir die vervoer van houters) gebruik vir die vervoer van goedere of handelsware,

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

3. Vir doeleindes van hierdie Artikel word rente op fondse wat regstreeks verbonde is aan die bedryf van skepe of vliegtuie in internasionale verkeer, beskou as inkomste of winste verkry uit die bedryf van sodanige skepe of vliegtuie en die bepalings van Artikel 11 is nie met betrekking tot sodanige rente van toepassing nie.

4. Die bepalings van paragrawe 1, 2 en 3 van hierdie Artikel is ook van toepassing op winste verkry uit die deelname aan 'n poel, 'n gesamentlike besigheid of 'n internasionale bedryfsagentskap.

5. Die uitdrukking "bedryf van skepe of vliegtuie" beteken die besigheid van die vervoer per see of per lug van passasiers, pos, lewende hawe of goedere, bedryf deur die eienaars, huurders of bevrouters van skepe of vliegtuie, met inbegrip van die verkoop van kaartjies vir sodanige vervoer namens ander ondernemings, die toevallige verhuring van skepe of vliegtuie en enige ander bedrywigheid waarop die bevoegde owerhede gesamentlik ooreenkom, wat regstreeks aan sodanige vervoer verbonde is.

6. Met betrekking tot winste verkry deur Gulf Air is die bepalings van paragrawe 1, 2 en 3 van hierdie Artikel slegs van toepassing op die gedeelte van daardie winste wat ingevolge sy oprigtingskontrak aan die Regering van die Sultanaat Oman toeskryfbaar is.

Artikel 9

Verwante Ondernemings

1. Waar

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

en voorwaardes in enigeen van die gevalle tussen die twee ondernemings met betrekking tot hulle 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 dienoreenkomstig belas word.

2. Where a Contracting State includes, in accordance with the provisions of paragraph 1 of this Article, in the profits of an enterprise of that Contracting State, and taxes accordingly, profits on which an enterprise of the other Contracting State has been charged to tax in that other Contracting State and where the competent authorities of the Contracting States agree, upon consultation, that all or part of the profits so included are profits which would have accrued to the enterprise of the first-mentioned Contracting State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Contracting State shall make an appropriate adjustment to the amount of the tax charged therein on those agreed profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement.

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 shall be taxable only in that other Contracting State, provided such resident is the beneficial owner of the dividends.

2. 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.

3. The provisions of paragraph 1 of this Article shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

4. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other Contracting 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 Contracting State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other Contracting 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 Contracting State.

5. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the shares or other rights in respect of which the dividend is paid to take advantage of this Article by means of that creation or assignment.

2. Waar 'n Kontrakterende Staat, ooreenkomstig die bepalings van paragraaf 1 van hierdie Artikel, by die winste van 'n onderneming van daardie Kontrakterende Staat winste insluit, en dit dienoreenkomstig belas, waarop 'n onderneming van die ander Kontrakterende Staat in daardie ander Kontrakterende Staat belas is, en waar die bevoegde owerhede van die Kontrakterende State in oorlegpleging ooreenkom dat die geheel of gedeelte van die winste aldus ingesluit, winste is wat aan die onderneming van eersgenoemde Kontrakterende Staat sou toegeval het as die voorwaardes tussen die twee ondernemings gestel, dieselfde was as dié wat tussen onafhanklike ondernemings gestel sou gewees het, moet daardie ander Kontrakterende Staat die bedrag van die belasting wat hy op daardie ooreengekome winste hef, toepaslik aanpas. By die vasstelling van sodanige aanpassing moet die ander bepalings van hierdie Ooreenkoms behoorlik in ag geneem word.

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 is slegs in daardie ander Kontrakterende Staat belasbaar, met dien verstande dat sodanige inwoner die voordelige eienaar van die dividende is.

2. Die uitdrukking "dividende" soos in hierdie Artikel gebruik, 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.

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

4. Waar 'n maatskappy wat 'n inwoner van 'n Kontrakterende Staat is, winste of inkomste uit die ander Kontrakterende Staat verkry, hef daardie ander Kontrakterende Staat nie belasting op die dividende betaal deur die maatskappy nie, behalwe vir sover sodanige dividende betaal word aan 'n inwoner van daardie ander kontrakterende Staat of vir sover die aandelebesit ten opsigte waarvan die dividende betaal word, effektief verbonde is aan 'n permanente saak geleë in daardie ander Kontrakterende Staat, en onderwerp ook nie die maatskappy se onuitgekeerde winste aan 'n 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 Kontrakterende Staat ontstaan.

5. Die bepalings van hierdie Artikel is nie van toepassing nie indien dit die hoofdoelwit of een van die hoofdoelwitte was van enige persoon betrokke by die skepping of toedeling van die aandele of ander regte ten opsigte waarvan die dividend betaal word, om voordeel uit hierdie Artikel te trek deur middel van daardie skepping of toedeling.

Article 11

Interest

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other Contracting State, provided such resident is the beneficial owner of the interest.

2. 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.

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

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

5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the 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 of interest. 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 Agreement.

6. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid to take advantage of this Article by means of that creation or assignment.

Article 12

Royalties

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

Artikel 11

Rente

1. Rente wat in 'n Kontrakterende Staat ontstaan en betaal word aan 'n inwoner van die ander Kontrakterende Staat, is slegs in daardie ander Kontrakterende Staat belasbaar, met dien verstande dat sodanige inwoner die voordelige eienaar van die rente is.

2. Die uitdrukking "rente" soos in hierdie Artikel gebruik, 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.

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

4. Rente word geag in 'n Kontrakterende Staat te ontstaan indien die betaler 'n inwoner van daardie Kontrakterende Staat is. Waar die persoon wat die rente betaal, hetsy daardie persoon 'n inwoner van 'n Kontrakterende Staat is al dan nie, egter in 'n Kontrakterende Staat 'n permanente saak het in verband waarmee die verpligting ten opsigte waarvan die rente betaal word, aangegaan is, en sodanige rente deur sodanige permanente saak gedra word, word sodanige rente geag te ontstaan in die Kontrakterende Staat waarin die permanente saak geleë is.

5. Waar, vanweë 'n besondere verband tussen die betaler en die voordelige eienaar of tussen hulle albei en 'n ander persoon, die bedrag van die rente, met inagneming van die skuldeis waarvoor dit betaal word, die bedrag te bowe gaan waarop die betaler en die voordelige eienaar by ontstentenis van sodanige verband sou ooreengekom het, is die bepaling van hierdie Artikel slegs op laasgenoemde bedrag van die rente van toepassing. In sodanige geval bly die oormaat deel van die betalings belasbaar ooreenkomstig die wette van elk van die Kontrakterende State, met behoorlike inagneming van die ander bepaling van hierdie Ooreenkoms.

6. Die bepaling van hierdie Artikel is nie van toepassing nie indien dit die hoofdoelwit of een van die hoofdoelwitte was van enige persoon betrokke by die skepping of toedeling van die skuldeis ten opsigte waarvan die rente betaal word, om voordeel uit hierdie Artikel te trek deur middel van daardie skepping of toedeling.

Artikel 12

Tantième

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

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

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

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

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

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

7. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the rights in respect of which the royalties are paid to take advantage of this Article by means of that creation or assignment.

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 Contracting State.

2. Sodanige tantième kan egter ook in die Kontrakterende Staat waarin dit ontstaan en ooreenkomstig die wette van daardie Kontrakterende Staat belas word, maar indien die voordelige eienaar van die tantième 'n inwoner van die ander Kontrakterende Staat is, gaan die belasting aldus opgelê, nie agt persent van die bruto bedrag van die tantième te bowe nie.

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

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

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

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

7. Die bepalings van hierdie Artikel is nie van toepassing nie indien dit die hoofdoelwit of een van die hoofdoelwitte was van enige persoon betrokke by die skepping of toedeling van die regte ten opsigte waarvan die tantième betaal word, om voordeel uit hierdie Artikel te trek deur middel van daardie skepping of toedeling.

Artikel 13

Kapitaalwinste

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

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other Contracting 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 Contracting State.

4. With respect to gains derived by Gulf Air, the provisions of paragraph 3 of this Article shall apply only to the part of those gains which is attributable under its constitutive contract to the Government of the Sultanate of Oman.

5. Gains from the alienation of shares of the capital stock of a company the property of which consists directly or indirectly principally of immovable property situated in a Contracting State may be taxed in that State.

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

Article 14

Income from Employment

1. Subject to the provisions of Articles 15, 17 and 18, 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 Contracting 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 Contracting State.

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

- (a) the recipient is present in the other Contracting 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,
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Contracting State,
- (c) the remuneration is not borne by a permanent establishment which the employer has in the other Contracting State.

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

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, met inbegrip van sodanige winste uit die vervreemding van so 'n permanente saak (alleen of tesame met die onderneming in sy geheel), kan in daardie ander Kontrakterende Staat belas word.

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

4. Met betrekking tot winste verkry deur Gulf Air is die bepalings van paragraaf 3 van hierdie Artikel slegs van toepassing op die deel van daardie winste wat ingevolge sy oprigtingskontrak aan die Regering van die Sultanaat Oman toeskryfbaar is.

5. Winste uit die vervreemding van aandele van die aandeelkapitaal van 'n maatskappy waarvan die eiendom regstreeks of onregstreeks hoofsaaklik uit onroerende eiendom bestaan wat in 'n Kontrakterende Staat geleë is, kan in daardie Staat belas word.

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

Artikel 14

Inkomste uit 'n Diensbetrekking

1. Behoudens die bepalings van Artikels 15, 17 en 18 is salarisse, lone en ander soortgelyke besoldiging verkry deur 'n inwoner van 'n Kontrakterende Staat ten opsigte van 'n diensbetrekking, slegs in daardie Kontrakterende 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 Kontrakterende Staat belas word.

2. Ondanks die bepalings van paragraaf 1 van hierdie Artikel is besoldiging verkry deur 'n inwoner van 'n Kontrakterende Staat ten opsigte van 'n diensbetrekking beoefen in die ander Kontrakterende Staat, slegs in eersgenoemde Kontrakterende Staat belasbaar indien daar aan al die volgende voorwaardes voldoen word:

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

3. Ondanks die voorgaande paragrawe van hierdie Artikel kan besoldiging verkry ten opsigte van 'n diensbetrekking beoefen aan boord van 'n skip of vliegtuig bedryf in internasionale verkeer, belas word in die Kontrakterende Staat waarvan die onderneming wat die skip of vliegtuig bedryf, 'n inwoner is.

Article 15***Directors' Fees***

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

Article 16***Entertainers and Sportspersons***

1. Notwithstanding the provisions of Articles 7 and 14, 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 personal activities as such exercised in the other Contracting State, may be taxed in that other Contracting State.

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

3. Income derived by an entertainer or a sportsperson from activities exercised in a Contracting State shall be exempt from tax in that Contracting State, if the visit to that Contracting State is supported wholly or mainly by public funds of the other Contracting State or a political subdivision or a local authority or a statutory body thereof.

Article 17***Pensions and Annuities***

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

2. The term "annuity" means a stated sum payable to an individual periodically at stated times during the life of that individual 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.

Artikel 15

Direkteursgelde

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

Artikel 16

Verhoogkunstenaars en Sportlui

1. Ondanks die bepalings van Artikels 7 en 14 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 sportpersoon, uit persoonlike bedrywighede as sodanig wat in die ander Kontrakterende Staat beoefen word, in daardie ander Kontrakterende Staat belas word.

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

3. Inkomste verkry deur 'n verhoogkunstenaar of 'n sportpersoon uit bedrywighede beoefen in 'n Kontrakterende Staat, is vrygestel van belasting in daardie Kontrakterende Staat indien die besoek aan daardie Kontrakterende Staat geheel en al of hoofsaaklik ondersteun word deur openbare fondse van die ander Kontrakterende Staat of 'n staatkundige onderafdeling of 'n plaaslike owerheid of statutêre liggaam daarvan.

Artikel 17

Pensioene en Annuïteite

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

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

Article 18

Government Service

1. (a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority or a statutory body thereof to an individual in respect of services rendered to that Contracting State or subdivision or authority or body shall be taxable only in that Contracting State.
- (b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that Contracting State and the individual is a resident of that Contracting State who:
 - (i) is a national of that Contracting State; or
 - (ii) did not become a resident of that Contracting 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 or a statutory body thereof to an individual in respect of services rendered to that Contracting State or subdivision or authority or body shall be taxable only in that Contracting 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 Contracting State.
3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages and other 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 or a statutory body thereof.

Article 19

Students

Students or business apprentices who are present in a Contracting State solely for the purpose of their education or training and who are, or immediately before being so present were, residents of the other Contracting State, shall be exempt from tax in the first-mentioned Contracting State on payments received from outside that first-mentioned Contracting State for the purposes of their maintenance, education or training.

Article 20

Other Income

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

Artikel 18***Regeringsdiens***

1. (a) Salarisse, lone en ander soortgelyke besoldiging, uitgesonderd 'n pensioen, betaal deur 'n Kontrakterende Staat of 'n staatkundige onderafdeling of 'n plaaslike owerheid of 'n statutêre liggaam daarvan aan 'n individu ten opsigte van dienste gelewer aan daardie Kontrakterende Staat of onderafdeling of owerheid of liggaam, is slegs in daardie Kontrakterende Staat belasbaar.
- (b) Sodanige salarisse, lone en ander soortgelyke besoldiging is egter slegs in die ander Kontrakterende Staat belasbaar indien die dienste in daardie Kontrakterende Staat gelewer word en die individu 'n inwoner van daardie Kontrakterende Staat is wat:
 - (i) 'n burger van daardie Kontrakterende Staat is; of
 - (ii) nie 'n inwoner van daardie Kontrakterende 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 onderafdeling of 'n plaaslike owerheid of 'n statutêre liggaam daarvan aan 'n individu ten opsigte van dienste gelewer aan daardie Kontrakterende Staat of onderafdeling of owerheid of liggaam, is slegs in daardie Kontrakterende Staat belasbaar.
- (b) Sodanige pensioen is egter slegs in die ander Kontrakterende Staat belasbaar indien die individu 'n inwoner en 'n burger van daardie Kontrakterende Staat is.

3. Die bepalings van Artikels 14, 15, 16 en 17 is van toepassing op salarisse, lone en ander soortgelyke besoldiging, en op pensioene, ten opsigte van dienste gelewer in verband met 'n besigheid gedryf deur 'n Kontrakterende Staat of 'n staatkundige onderafdeling of 'n plaaslike owerheid of 'n statutêre liggaam daarvan.

Artikel 19***Studente***

Studente of besigheidsleerlinge wat in 'n Kontrakterende Staat teenwoordig is uitsluitlik vir die doel van hulle onderrig of opleiding en wat inwoners is, of onmiddellik voor sodanige teenwoordigheid inwoners was, van die ander Kontrakterende Staat, is in eersgenoemde Kontrakterende Staat vrygestel van belasting op betalings ontvang van buite daardie eersgenoemde Kontrakterende Staat vir die doel van hulle onderhoud, onderrig of opleiding.

Artikel 20***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 Ooreenkoms behandel word nie, is slegs in daardie Kontrakterende Staat belasbaar.

2. The provisions of paragraph 1 of this Article 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 and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

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

Article 21

Elimination of Double Taxation

Double taxation shall be eliminated as follows:

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

Article 22

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

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

Artikel 21

Uitskakeling van Dubbele Belasting

Dubbele belasting word soos volg uitgeskakel:

- (a) in Suid-Afrika, behoudens die bepalings van die reg van Suid-Afrika betreffende die aftrekking vanaf belasting betaalbaar in Suid-Afrika van belasting betaalbaar in enige ander land as Suid-Afrika, word Omaanse belasting betaal deur inwoners van Suid-Afrika ten opsigte van inkomste belasbaar in die Sultanaat Oman, ooreenkomstig die bepalings van hierdie Ooreenkoms afgetrek van die belastings verskuldig ooreenkomstig die Suid-Afrikaanse fiskale reg. Sodanige aftrekking mag egter nie 'n bedrag te bowe gaan wat in dieselfde verhouding tot die totale Suid-Afrikaanse belasting betaalbaar staan as wat die betrokke inkomste tot die totale inkomste staan nie;
- (b) in die Sultanaat Oman, waar 'n inwoner van die Sultanaat Oman inkomste verkry wat ooreenkomstig die bepalings van hierdie Ooreenkoms in Suid-Afrika belas kan word, laat die Sultanaat Oman as 'n aftrekking van die belasting op die inkomste van daardie inwoner 'n bedrag toe gelyk aan die Suid-Afrikaanse belasting betaal, hetsy regstreeks of as aftrekking. Sodanige aftrekking mag egter nie daardie deel van die Omaanse belasting (soos bereken voor die aftrekking toegestaan word) wat toeskryfbaar is aan die inkomste wat in Suid-Afrika belas kan word, te bowe gaan nie.

Artikel 22

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 of swaarder is as die belasting en die daaraan verbonde vereistes waaraan burgers van daardie ander Kontrakterende Staat onder dieselfde omstandighede, veral 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. 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 Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 5 of Article 11 or paragraph 6 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned Contracting State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting 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 Contracting State are or may be subjected.

Article 23

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for that person in taxation not in accordance with this Agreement, that person may, irrespective of the remedies provided by the domestic law of those Contracting States, present a case to the competent authority of the Contracting State of which the person is a resident or, if the case comes under paragraph 1 of Article 22, to that of the Contracting State of which the person is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at 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 Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.

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.

2. Die belasting op 'n permanente saak wat 'n onderneming van 'n Kontrakterende Staat in die ander Kontrakterende Staat het, word nie in daardie ander Kontrakterende Staat op 'n minder gunstige wyse gehef as die belasting wat gehef word op ondernemings van daardie ander Kontrakterende 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 kortings, verligtings en verminderings vir belastingdoeleindes toe te staan uit hoofde van burgerlike status of gesinsverantwoordelikhede wat aan sy eie inwoners toegestaan word nie.

3. Uitgesonderd waar die bepalings van paragraaf 1 van Artikel 9, paragraaf 5 van Artikel 11, of paragraaf 6 van Artikel 12 van toepassing is, is rente, tantième 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, aftrekbaar op dieselfde voorwaardes as wat sou geld indien dit aan 'n inwoner van die eersgenoemde Kontrakterende Staat betaal is.

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

Artikel 23

Prosedure vir Onderlinge Ooreenkoms

1. Waar 'n persoon van mening is dat die optrede van een van of van albei die Kontrakterende State tot gevolg het of tot gevolg sal hê dat daardie persoon nie ooreenkomstig die bepalings van hierdie Ooreenkoms belas word nie, kan daardie persoon, ongeag die regsmiddels waarvoor die landsreg van daardie Kontrakterende State voorsiening maak, 'n saak stel aan die bevoegde owerheid van die Kontrakterende Staat waarvan die persoon 'n inwoner is of, indien die saak onder paragraaf 1 van Artikel 22 ressorteer, aan dié van die Kontrakterende Staat waarvan die persoon 'n burger is. Die saak moet gestel word binne drie jaar vanaf die eerste kennisgewing van die handeling wat gelei het tot belasting wat nie ooreenkomstig die bepalings van die Ooreenkoms is nie.

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

3. Die bevoegde owerhede van die Kontrakterende State moet probeer om enige probleme of twyfel wat in verband met die vertolking of toepassing van die Ooreenkoms ontstaan, deur onderlinge ooreenkoms uit die weg te ruim.

4. Die bevoegde owerhede van die Kontrakterende State kan regstreeks met mekaar kommunikeer met die doel om tot 'n ooreenkoms te geraak soos in die voorgaande paragrawe beoog.

Article 24

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement in so far as the taxation thereunder is not contrary to the Agreement, in particular to prevent fiscal evasion. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that Contracting 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 Agreement. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

- (a) to carry out administrative measures at variance with the laws and 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 25

Members of Diplomatic Missions and Consular Posts

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

Article 26

Entry into Force

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

Artikel 24

Uitruil van Inligting

1. Die bevoegde owerhede van die Kontrakterende State moet sodanige inligting uitruil as wat nodig is vir die uitvoering van die bepalinge van hierdie Ooreenkoms of van die landsreg van die Kontrakterende State aangaande belastinge deur die Ooreenkoms gedek vir sover die belasting daarkragtens nie strydig met die Ooreenkoms is nie, veral ten einde fiskale ontduiking te voorkom. 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 Kontrakterende Staat verkry word en word openbaar gemaak slegs aan persone of owerhede (met inbegrip van howe en administratiewe liggame) betrokke by die aanslaan of invordering van, die afdwing of vervolging ten opsigte van, of die beslissing van appèlle in verband met, die belastinge deur die Ooreenkoms gedek. Sodanige persone of owerhede mag die inligting slegs vir sodanige doeleindes gebruik. Hulle mag die inligting by openbare hofverrigtinge of by regterlike beslissings openbaar maak.

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

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

Artikel 25

Lede van Diplomatieke Missies en Konsulêre Poste

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

Artikel 26

Inwerkingtreding

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

2. The provisions of the Agreement shall apply:
 - (a) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of January next following the date upon which the Agreement enters into force;
 - (b) with regard to other taxes, in respect of taxable years beginning on or after the first day of January next following the date upon which the Agreement enters into force.

Article 27

Termination

1. This Agreement shall remain in force indefinitely but either of the Contracting States may terminate the Agreement through the diplomatic channel, by giving to the other Contracting State written notice of termination at least six months before the end of any calendar year starting five years after the year in which the Agreement entered into force.

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

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

Done at Muscat on this day of 14.... H, corresponding to the 9th day of October 2002 in two identical originals each in the English and Arabic languages, both texts being equally authoritative. In case of divergence between the texts, the English text shall prevail.

AGH PAHAD
FOR THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA

(Signed)
FOR THE GOVERNMENT OF THE
SULTANATE OF OMAN

2. Die bepalinge van die Ooreenkoms is van toepassing:
- (a) met betrekking tot belastinge wat by die bron teruggehou word, ten opsigte van bedrae betaal of gekrediteer op of ná die eerste dag van Januarie eersvolgende op die datum waarop die Ooreenkoms in werking tree;
 - (b) met betrekking tot ander belastinge, ten opsigte van belasbare jare beginnende op of ná die eerste dag van Januarie eersvolgende op die datum waarop die Ooreenkoms in werking tree.

Artikel 27

Opsegging

1. Hierdie Ooreenkoms bly vir 'n onbepaalde tyd van krag, maar enigeen van die Kontrakterende State kan die Ooreenkoms langs die diplomatieke kanaal opse deur aan die ander Kontrakterende Staat skriftelik kennis van opsegging te gee minstens ses maande voor die einde van enige kalenderjaar wat begin vyf jaar ná die datum van inwerkingtreding van die Ooreenkoms.

2. In sodanige geval is die Ooreenkoms nie meer van toepassing nie:
- (a) met betrekking tot belastinge wat by die bron teruggehou word, ten opsigte van bedrae betaal of gekrediteer ná die einde van die kalenderjaar waarin sodanige kennis gegee word;
 - (b) met betrekking tot ander belastinge, ten opsigte van belasbare jare beginnende ná die einde van die kalenderjaar waarin sodanige kennis gegee word.

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

GEDOEN te Maskat, op hede die dag van 14...H, wat ooreenstem met die 9de dag van Oktober 2002, in twee identiese oorspronklike elk in die Engelse en die Arabiese taal, waarvan albei tekste ewe outentiek is. In die geval van verskille tussen die tekste, geld die Engelse teks.

AGH PAHAD
NAMENS DIE REGERING VAN
DIE REPUBLIEK VAN SUID-AFRIKA

(Geteken)
NAMENS DIE REGERING VAN DIE
SULTANAAT OMAN

PROTOCOL

At the signing of the Agreement between the Government of the Republic of South Africa and the Government of the Sultanate of Oman for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, the undersigned have agreed upon the following provisions which shall form an integral part of the Agreement:

1. With reference to Article 4:

The State General Reserve Fund of the Sultanate of Oman, which is beneficially owned and controlled by the Sultanate of Oman, is a resident of the Sultanate of Oman for the purposes of the Agreement.

2. With reference to Article 10:

It is understood that dividends arising in one of the Contracting States which are beneficially owned by a resident of the other Contracting State are not subjected to tax in the Contracting State in which they arise. Should there be any change in these systems, the Contracting States will reconsider the provisions of this Article at the request of either Contracting State and make any amendments which are considered necessary.

3. With reference to Article 22:

- (i) It is understood that the provisions of this Article will not be fully implemented by the Sultanate of Oman until the Sultanate of Oman harmonises the tax rates applicable to enterprises which are carrying on activities in the Sultanate of Oman.
- (ii) It is understood that as branches in South Africa of companies which have their place of effective management outside South Africa are exempt from the secondary tax on companies, nothing contained in this Article shall prevent South Africa from imposing on the profits attributable to a permanent establishment in South Africa of a company, which is a resident of the Sultanate of Oman, a tax at a rate which does not exceed the rate of normal tax on companies by more than five percentage points.

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

Done at Muscat on this day of14.... H, corresponding to the 9th day of October 2002 in two identical originals each in the English and Arabic languages, both texts being equally authoritative. In case of divergence between the texts, the English text shall prevail.

AGH PAHAD
FOR THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA

(Signed)
FOR THE GOVERNMENT OF THE
SULTANATE OF OMAN

PROTOKOL

By die ondertekening van die Ooreenkoms tussen die Regering van die Republiek van Suid-Afrika en die Regering van die Sultanaat Oman vir die Vermyding van Dubbele Belasting en die Voorkoming van Fiskale Ontduiking met betrekking tot Belasting op Inkomste het die ondergetekendes ooreengekom dat die volgende bepalings 'n integrerende deel van die Ooreenkoms uitmaak:

1. Met verwysing na Artikel 4:

Die Staats- Algemene Reserwefonds van die Sultanaat Oman, wat voordelig besit en beheer word deur die Sultanaat Oman, is vir doeleindes van die Ooreenkoms 'n inwoner van die Sultanaat Oman.

2. Met verwysing na Artikel 10:

Die verstandhouding is dat dividende wat in een van die Kontrakterende State ontstaan en voordelig besit word deur 'n inwoner van die ander Kontrakterende Staat, nie aan belasting onderworpe is in die Kontrakterende State waarin hulle ontstaan nie. Indien daar enige verandering in hierdie stelsels ontstaan, heroorweeg die Kontrakterende State, op versoek van enigeen van die State, die bepalings van daardie Artikel en bring hulle enige wysigings aan wat nodig geag word.

3. Met verwysing na Artikel 22:

- (i) Die verstandhouding is dat die bepalings van hierdie Artikel nie ten volle deur die Sultanaat Oman geïmplementeer word nie tot tyd en wyl die Sultanaat Oman die belastingkoerse van toepassing op ondernemings wat bedrywighede in die Sultanaat Oman verrig, harmonieer.
- (ii) Die verstandhouding is dat aangesien takke in Suid-Afrika van maatskappye wat hul plek van effektiewe bestuur buite Suid-Afrika het, vrygestel is van sekondêre belasting op maatskappye, niks in hierdie Artikel Suid-Afrika daarvan weerhou om op die winste wat toegeskryf kan word aan 'n permanente saak in Suid-Afrika van 'n maatskappy wat 'n inwoner van die Sultanaat Oman is, 'n belasting te hef teen 'n koers wat nie die koers van normale belasting op maatskappye met meer as vyf persentasiepunte te bowe gaan nie.

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

GEDOEN te Maskat, op hede die dag van 14...H, wat ooreenstem met die 9de dag van Oktober 2002, in twee identiese oorspronklikes elk in die Engelse en die Arabiese taal, waarvan albei tekste ewe outentiek is. In die geval van verskille tussen die tekste, geld die Engelse teks.

AGH PAHAD
NAMENS DIE REGERING VAN
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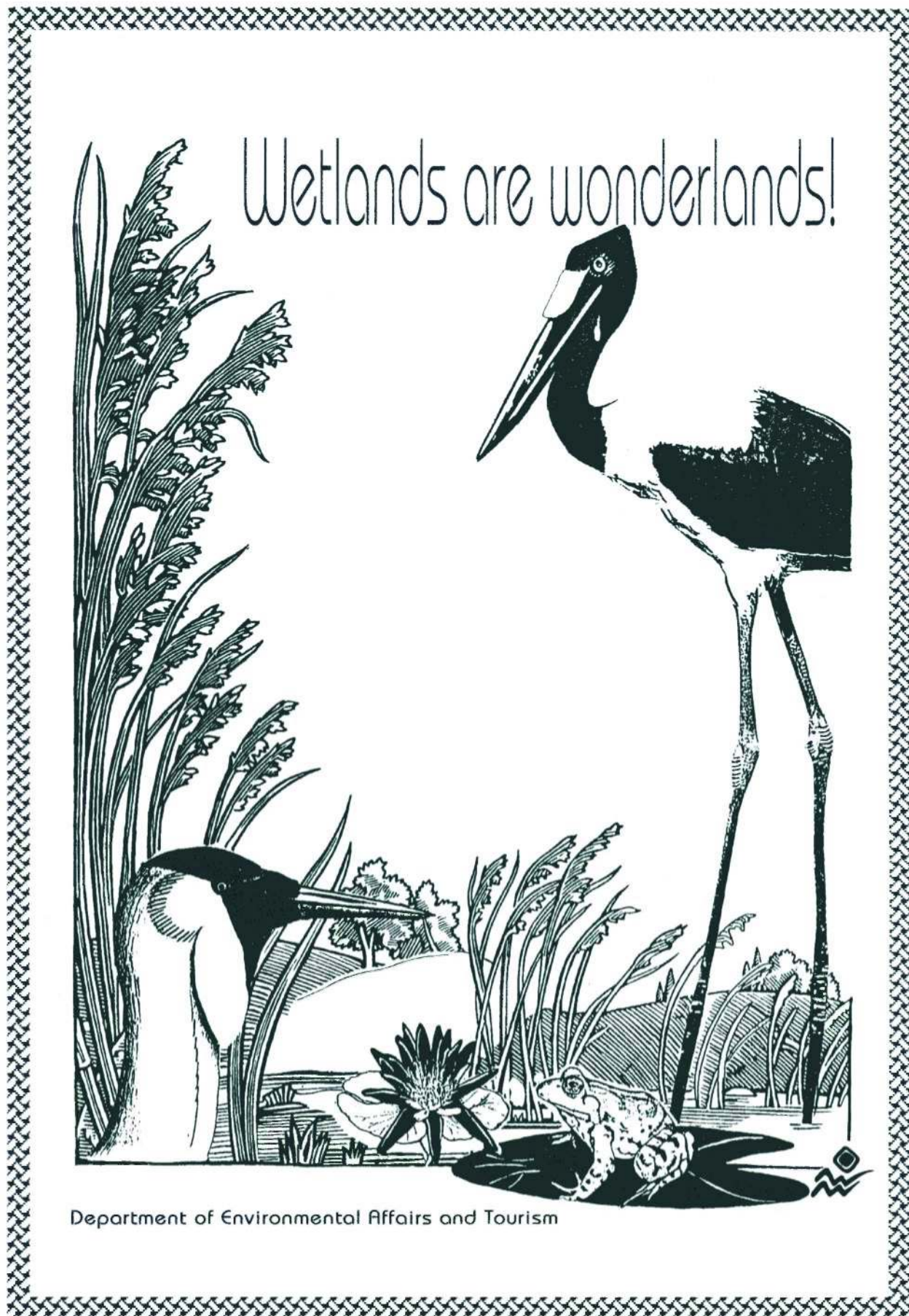
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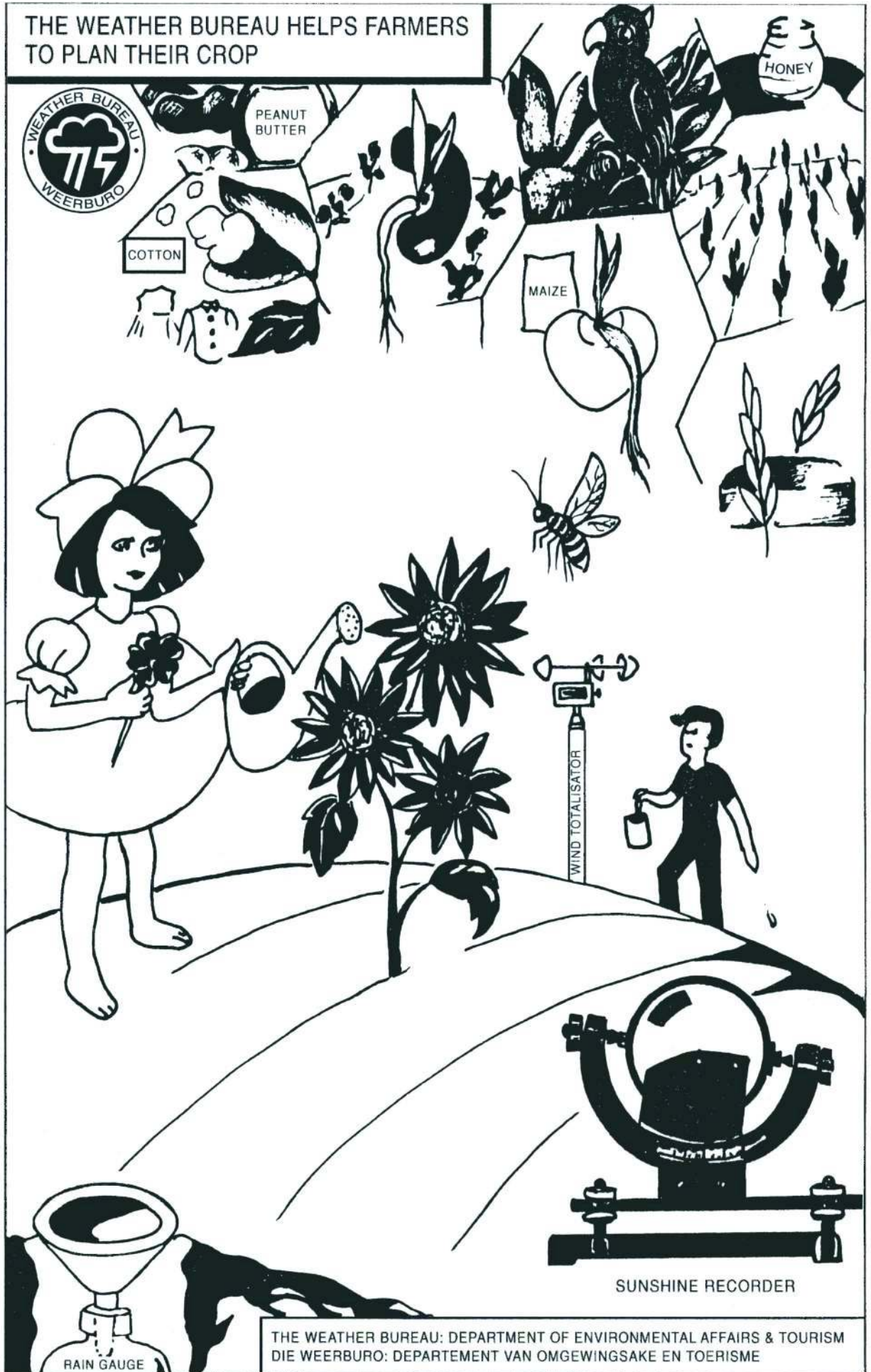
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