



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 471

Pretoria, 17 September 2004

No. 26798



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

CONTENTS**INHOUD**

No.	Page No.	Gazette No.	No.	Bladsy No.	Koerant No.
GOVERNMENT NOTICES			GOEWERMENTSKENNISGEWINGS		
South African Revenue Service			Suid-Afrikaanse Inkomstediens		
<i>Government Notice</i>			<i>Goewermentskennisgewing</i>		
1094			1094		
Income Tax Act (58/1962): Agreement between the Government of the Republic of South Africa and the Government of New Zealand for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income		2 26798	Inkomstebelastingwet (58/1962): Ooreenkoms tussen die Regering van die Republiek van Suid-Afrika en die Regering van Nieu-Seeland vir die vermyding van dubbele belasting en die voorkoming van fiskale ontduiking met betrekking tot belasting op inkomste.....		3 26798

GOVERNMENT NOTICE**SOUTH AFRICAN REVENUE SERVICE****No. 1094****17 September 2004****INCOME TAX ACT, 1962****AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND THE GOVERNMENT OF NEW ZEALAND 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 New Zealand and has been approved by Parliament in terms of section 231(2) of the Constitution.

It is further notified in terms of Article 26 of the Agreement, that the date of entry into force is 23 July 2004.

GOEWERMENTSKENNISGEWING

SUID-AFRIKAANSE INKOMSTEDIENS**No. 1094****17 September 2004****INKOMSTEBELASTINGWET, 1962****OOREENKOMS TUSSEN DIE REGERING VAN DIE REPUBLIEK VAN SUID-AFRIKA EN DIE REGERING VAN NIEU-SEELAND 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 Nieu-Seeland en deur die Parlement goedgekeur is ingevolge artikel 231(2) van die Grondwet.

Daar word verder bekendgemaak dat ingevolge Artikel 26 van die Ooreenkoms, die datum van inwerkingtreding 23 Julie 2004 is.

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND THE GOVERNMENT OF NEW ZEALAND 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 New Zealand

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

Have agreed as follows:

Article 1

Persons Covered

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

Article 2

Taxes Covered

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

(a) in New Zealand: the income tax;

(hereinafter referred to as "New Zealand tax");

(b) in South Africa:

(i) the normal tax;

(ii) the secondary tax on companies; and

(iii) the withholding tax on royalties;

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

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

3. Notwithstanding the provisions of paragraphs 1 and 2, the taxes covered by the Agreement do not include any amount which represents a penalty or interest imposed under the laws of either Contracting State.

OOREENKOMS TUSSEN DIE REGERING VAN DIE REPUBLIEK VAN SUID-AFRIKA EN DIE REGERING VAN NIEU-SEELAND 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 Nieu-Seeland

begerig om 'n Ooreenkoms te sluit vir die vermyding van dubbele belasting en die voorkoming van fiskale ontduiking met betrekking tot belastings op inkomste,

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. Die bestaande belastings waarop hierdie Ooreenkoms van toepassing is, is:

(a) in Nieu-Seeland: die inkomstebelasting;

(hierna "Nieu-Seeland-belasting" genoem);

(b) in Suid-Afrika:

(i) die normale belasting;

(ii) die sekondêre belasting op maatskappye; en

(iii) die terughoudingsbelasting op tantième;

(hierna "Suid-Afrikaanse belasting" genoem).

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

3. Ondanks die bepalings van paragrawe 1 en 2 sluit die belastings deur die Ooreenkoms gedek nie enige bedrag in wat 'n boete of rente gehef ingevolge die wette van enigeen van die Kontrakterende State verteenwoordig nie.

Article 3

General Definitions

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

- (a) (i) the term "New Zealand" means the territory of New Zealand but does not include Tokelau or the Associated Self Governing States of the Cook Islands and Niue; it also includes any area beyond the territorial sea which by New Zealand legislation and in accordance with international law has been, or may hereafter be, designated as an area in which the rights of New Zealand with respect to natural resources may be exercised;
- (ii) 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 "business" includes the performance of professional services and of other activities of an independent character;
- (c) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- (d) the term "competent authority" means:
 - (i) in the case of New Zealand, the Commissioner of Inland Revenue or an authorised representative;
 - (ii) in the case of South Africa, the Commissioner for the South African Revenue Service or an authorised representative;
- (e) the terms "a Contracting State" and "the other Contracting State" mean New Zealand or South Africa, as the context requires;
- (f) the term "enterprise" applies to the carrying on of any business;
- (g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (h) the term "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 from a place or between places in the other Contracting State;

Artikel 3***Algemene Woordomsrywings***

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

- (a) (i) beteken die uitdrukking "Nieu-Seeland" die gebied van Nieu-Seeland, maar sluit nie Tokelau of die Geassosieerde Selfregerende State van die Cook-eilande en Niue in nie; dit sluit ook enige deel buite die territoriale waters in wat ingevolge Nieu-Seeland-wetgewing en ooreenkomstig die volkereg, aangewys is, of hierna aangewys kan word, as 'n gebied waarin die regte van Nieu-Seeland met betrekking tot natuurlike hulpbronne uitgeoefen mag word;
- (ii) beteken die uitdrukking "Suid-Afrika" die Republiek van Suid-Afrika en, wanneer in 'n 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) sluit die uitdrukking "besigheid" die uitvoering van professionele dienste en van ander bedrywighede van 'n onafhanklike aard in;
- (c) beteken die uitdrukking "maatskappy" 'n regspersoon of 'n entiteit wat vir belastingdoeleindes as 'n regspersoon behandel word;
- (d) beteken die uitdrukking "bevoegde owerheid":
 - (i) in die geval van Nieu-Seeland, die Kommissaris van Binnelandse Inkomste of 'n gemagtigde verteenwoordiger;
 - (ii) in die geval van Suid-Afrika, die Kommissaris van die Suid-Afrikaanse Inkomstediens of 'n gemagtigde verteenwoordiger;
- (e) beteken die uitdrukking "n Kontrakterende Staat" en "die ander Kontrakterende Staat" Nieu-Seeland of Suid-Afrika, na gelang die samehang vereis;
- (f) het die uitdrukking "onderneming" betrekking op die bedryf van 'n besigheid;
- (g) beteken die uitdrukking "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;
- (h) 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 vanaf 'n plek of tussen plekke in die ander Kontrakterende Staat bedryf word;

- (i) the term "national" means:
 - (a) in the case of New Zealand, any individual who is a citizen of New Zealand;
 - (b) in the case of South Africa:
 - (i) any individual who is a national of South Africa;
 - (ii) any legal person or association deriving its status as such from the laws in force in South Africa;
- (j) the term "natural resources" includes standing timber and fish;
- (k) the term "person" includes an individual, a company and any other body of persons that is treated as an entity for tax purposes.

2. For the purposes of Articles 10, 11 and 12, a trustee subject to tax in a Contracting State in respect of dividends, interest or royalties shall be deemed to be the beneficial owner of those dividends, interest or royalties.

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

Article 4

Resident

1. For the purposes of this Agreement, the term "resident" means any person who is a resident of a Contracting State for the purposes of that State's tax. The term also includes a Contracting State and any political subdivision or local authority of that State. The term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

2. Where by reason of the provisions of paragraph 1 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 solely of the State in which a permanent home is available to the individual; if a permanent home is available to the individual in both States or a permanent home is not available in either State, the individual shall be deemed to be a resident solely of the State with which the individual's personal and economic relations are closer (centre of vital interests);
- (b) if sole residence cannot be determined under the provisions of subparagraph (a), the individual shall be deemed to be a resident solely of the State in which the individual has an habitual abode;

- (i) beteken die uitdrukking "burger":
 - (a) in die geval van Nieu-Seeland, enige individu wat 'n burger van Nieu-Seeland is;
 - (b) in die geval van Suid-Afrika:
 - (i) enige individu wat 'n burger van Suid-Afrika is;
 - (ii) enige regspersoon of vereniging wat sodanige status verkry uit die wette wat in Suid-Afrika van krag is;
- (j) sluit die uitdrukking "natuurlike hulpbronne" staande houtvoorraad en vis in;
- (k) sluit die uitdrukking "persoon" 'n individu, 'n maatskappy en enige ander liggaam van persone in wat vir belastingdoeleindes as 'n entiteit behandel word.

2. Vir doeleindes van Artikels 10, 11 en 12, word 'n trustee wat in 'n Kontrakterende Staat aan belasting onderhewig is ten opsigte van dividende, rente of tantième, geag die bevoordeelde eienaar van daardie dividende, rente of tantième te wees.

3. 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 Staat se reg op daardie tydstip daaraan geheg word vir doeleindes van die belastinge waarop die Ooreenkoms van toepassing is, en geniet enige betekenis ingevolge die toepaslike belastingwette van daardie Staat voorrang bo die betekenis aan die uitdrukking gegee kragtens ander wette van daardie Staat.

Artikel 4

Inwoner

1. Vir doeleindes van hierdie Ooreenkoms beteken die uitdrukking "inwoner" enige persoon wat 'n inwoner van 'n Kontrakterende Staat is vir doeleindes van daardie Staat se belasting. Die uitdrukking sluit ook 'n Kontrakterende Staat en enige staatkundige onderafdeling of plaaslike owerheid van daardie Staat in. Die uitdrukking sluit egter nie 'n persoon wat in daardie Staat vir belasting aanspreeklik is slegs ten opsigte van inkomste uit bronne in daardie Staat in nie.

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

- (a) die individu word geag 'n inwoner te wees uitsluitlik van die Staat waarin 'n permanente tuiste tot die individu se beskikking is; indien 'n permanente tuiste in albei State tot die beskikking van die individu is of 'n permanente tuiste in geeneen van die State beskikbaar is nie, word die individu geag 'n inwoner te wees uitsluitlik van die Staat waarmee die individu se persoonlike en ekonomiese betrekkinge die nouste is (tuiste van lewensbelange);
- (b) indien die uitsluitlike verblyfplek nie ingevolge die bepalings van subparagraaf (a) vasgestel kan word nie, word die individu geag 'n inwoner te wees uitsluitlik van die Staat waarin die individu 'n gebruikelike verblyfplek het;

- (c) if the individual has an habitual abode in both States or in neither of them, the individual shall be deemed to be a resident solely of the State of which the individual is a national;
- (d) if the individual is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident solely of the 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, and
- (f) a mine, an oil or gas well, a quarry or any other place of extraction or exploitation of natural resources.

3. A building site, a construction, assembly or installation project or any supervisory activity in connection with such site or project, constitutes a permanent establishment only if such site, project or activity continues for a period of more than six months.

4. An enterprise shall be deemed to have a permanent establishment in a Contracting State and to carry on business through that permanent establishment if for more than six months:

- (a) it carries on activities that consist of, or that are connected with, the exploration for or exploitation of natural resources situated in that State; or
- (b) substantial equipment is being used in that State by, for or under contract with the enterprise.

- (c) indien die individu 'n gebruikelike verblyfplek in albei State het, of in geeneen van hulle nie, word die individu geag 'n inwoner te wees uitsluitlik van die Staat waarvan die individu 'n burger is;
- (d) indien die individu 'n burger van albei State is, of van geeneen van hulle 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 'n inwoner van albei Kontrakterende State is, word dit geag 'n inwoner te wees uitsluitlik van die 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, en
- (f) 'n myn, 'n olie- of gasbron, 'n steengroef of enige ander plek van ontginning of winning van natuurlike hulpbronne.

3. 'n Bouterrein, 'n konstruksie-, monteer- of installasieprojek of enige toesighoudende bedrywigheid met betrekking tot sodanige terrein of projek maak 'n permanente saak uit slegs indien sodanige terrein, projek of bedrywigheid vir 'n tydperk van langer as ses maande voortduur.

4. 'n Onderneming word geag 'n permanente saak in 'n Kontrakterende Staat te hê en om besigheid deur middel van daardie permanente saak te dryf indien vir langer as ses maande:

- (a) bedrywighede daardeur voortgesit word wat bestaan uit, of wat verband hou met, die eksplorاسie na of ontginning van natuurlike hulpbronne wat in daardie Staat geleë is; of
- (b) noemenswaardige toerusting in daardie Staat gebruik word by, vir of onder kontrak met die onderneming.

5. The term "permanent establishment" likewise encompasses:

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

6. For the purposes of determining the duration of activities under paragraphs 3, 4 and 5, the period during which activities are carried on in a Contracting State by an enterprise associated with another enterprise shall be aggregated with the period during which activities are carried on by the enterprise with which it is associated if the first-mentioned activities are connected with the activities carried on in that State by the last-mentioned enterprise, provided that any period during which two or more associated enterprises are carrying on concurrent activities is counted only once. An enterprise shall be deemed to be associated with another enterprise if one is controlled directly or indirectly by the other, or if both are controlled directly or indirectly by a third person or persons.

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

- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of 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. Eweneens omvat die uitdrukking "permanente saak":

- (a) 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 'n Kontrakterende Staat voortduur vir 'n tydperk of tydperke wat altesaam 183 dae in enige tydperk van twaalf maande wat in die betrokke jaar van inkomste of jaar van aanslag begin of eindig, te bowe gaan;
- (b) 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 183 dae in enige tydperk van twaalf maande wat in die betrokke jaar van inkomste of jaar van aanslag begin of eindig, te bowe gaan.

6. Vir doeleindes van die vasstelling van die duur van bedrywighede ingevolge paragrawe 3, 4 en 5 word die tydperk waartydens bedrywighede in 'n Kontrakterende Staat voortgesit word deur 'n onderneming wat verwant is aan 'n ander onderneming, saamgetel by die tydperk waartydens bedrywighede deur die onderneming waaraan dit verwant is, voortgesit word, indien die eersgenoemde bedrywighede verwant is aan die bedrywighede wat in daardie ander Staat voortgesit word deur laasgenoemde onderneming, met dien verstande dat enige tydperk waartydens twee of meer verwante ondernemings gelyktydige bedrywighede beoefen, slegs een maal getel word. 'n Onderneming word geag verwant te wees aan 'n ander onderneming indien een regstreeks of onregstreeks deur die ander beheer word, of indien albei regstreeks of onregstreeks deur 'n derde persoon of persone beheer word.

7. 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, te vertoon of af te lewer;
- (b) die instandhouding van 'n voorraad goedere of handelsware wat aan die onderneming behoort, uitsluitlik met die doel om dit te berg, te vertoon of af te lewer;
- (c) die instandhouding van 'n voorraad goedere of handelsware wat aan die onderneming behoort, uitsluitlik vir die doel van verwerking deur 'n ander onderneming;
- (d) die instandhouding van 'n vaste besigheidsplek uitsluitlik met die doel om vir die onderneming goedere of handelsware aan te koop of inligting in te win;
- (e) die instandhouding van 'n vaste besigheidsplek uitsluitlik 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 subparagrawe (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.

8. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 9 applies – is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 7 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.

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

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

Article 6

Income from Immovable Property

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

2. The term “immovable property” shall have the meaning which it has under the laws of the Contracting State in which the property in question is situated. The term shall in any case include any natural resources, property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting immovable property apply, usufruct of immovable property, rights to explore for or exploit natural resources, and rights to variable or fixed payments either as consideration for or in respect of the exploitation of, or the right to explore for or exploit, natural resources. Ships and aircraft shall not be regarded as immovable property.

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

4. Any right referred to in paragraph 2 shall be regarded as situated where the immovable property, mineral, oil or gas deposits, quarries or natural resources, as the case may be, are situated or where the exploration may take place.

5. The provisions of paragraphs 1, 3 and 4 shall also apply to income from immovable property of an enterprise.

8. Ondanks die bepalings van paragrawe 1 en 2, waar 'n persoon • uitgesonderd 'n agent met 'n onafhanklike status op wie paragraaf 9 van toepassing is • namens 'n onderneming optree en magtiging het, en dit gewoonlik uitoefen, om in 'n Kontrakterende Staat kontrakte in die naam van die onderneming te sluit, word daardie onderneming geag 'n permanente saak in daardie Staat te hê ten opsigte van enige bedrywigheide wat daardie persoon vir die onderneming onderneem, tensy die bedrywigheide van sodanige persoon beperk is tot dié in paragraaf 7 genoem wat, indien dit deur middel van 'n vaste besigheidsplek uitgeoefen word, nie hierdie vaste besigheidsplek ingevolge die bepalings van daardie paragraaf 'n permanente saak sou maak nie.

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

10. 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, bosbou of visserij) 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 enige natuurlike hulpbronne, eiendom bykomstig by onroerende eiendom, lewende hawe en toerusting wat in landbou en bosbou gebruik word, regte waarop die bepalings van die algemene reg betreffende grondbesit van toepassing is, vruggebruik van onroerende eiendom, regte om vir natuurlike hulpbronne te eksploreer of om dit te ontgin, en regte op wisselende of vaste betalings of as vergoeding vir of ten opsigte van die ontginning van, of die reg op eksplorاسie vir of ontginning van natuurlike hulpbronne. Skepe en vliegtuie word nie as onroerende eiendom beskou nie.

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

4. Enige reg bedoel in paragraaf 2 word geag geleë te wees waar die onroerende eiendom, minerale-, olie- of gasafsettings, steengroewe of natuurlike hulpbronne, na gelang van die geval, geleë is of waar die eksplorاسie kan plaasvind.

5. Die bepalings van paragrawe 1, 3 en 4 is ook van toepassing op inkomste uit onroerende eiendom van 'n onderneming.

Article 7

Business Profits

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

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

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no deduction is allowable in respect of expenses which are not deductible under the laws of the Contracting State in which the permanent establishment is situated.

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

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

6. Where:

- (a) a resident of a Contracting State beneficially owns, whether directly or through one or more interposed trusts, a share of the business profits of an enterprise carried on in the other Contracting State by the trustee of a trust other than a trust which is treated as a company for tax purposes; and
- (b) in relation to that enterprise, that trustee would, in accordance with the principles of Article 5, have a permanent establishment in that other State,

the enterprise carried on by the trustee shall be deemed to be a business carried on in the other State by that resident through a permanent establishment situated in that other State and that share of the business profits shall be attributed to that permanent establishment.

7. Where profits include items of income or gains 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.

Artikel 7

Besigheidswinste

1. Die winste van 'n onderneming van 'n Kontrakterende Staat is slegs in daardie 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 Staat belas word, maar slegs soveel daarvan as wat aan daardie permanente saak toeskryfbaar is.

2. Behoudens die bepalings van paragraaf 3, waar 'n onderneming van 'n Kontrakterende Staat in die ander Kontrakterende Staat besigheid dryf deur middel van 'n permanente saak wat daarin geleë is, word daar in elke Kontrakterende Staat aan daardie permanente saak die winste toegeskryf wat 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 permanente saak aangegaan word, insluitende bestuurs- en algemene administratiewe koste aldus aangegaan, as aftrekkings toegelaat, hetsy in die Staat waarin die permanente saak geleë is of elders. Geen aftrekking is egter toelaatbaar nie ten opsigte van uitgawes wat ingevolge die wette van die Kontrakterende Staat waarin die permanente saak geleë is, nie aftrekbaar is nie.

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

5. 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 tot die teendeel is.

6. Waar:

- (a) 'n inwoner van 'n Kontrakterende Staat, hetsy regstreeks of deur middel van een of meer tussengeplaasde trusts, 'n aandeel van die besigheidswinste van 'n onderneming gedryf in die ander Kontrakterende Staat deur die trustee van 'n trust, behalwe 'n trust wat as 'n maatskappy vir belastingdoeleindes behandel word, voordelig besit; en
- (b) met betrekking tot daardie onderneming, daardie trustee ingevolge die beginsels van Artikel 5 'n permanente saak in daardie ander Staat het,

word die onderneming gedryf deur die trustee geag 'n besigheid te wees wat in die ander Staat gedryf word deur daardie inwoner deur middel van 'n permanente saak wat in daardie ander Staat geleë is en word daardie deel van die besigheidswinste aan daardie permanente saak toegeskryf.

7. Waar winste inkomste-items of winste 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.

8. Nothing in this Article shall affect the operation of any law of a Contracting State relating to tax imposed on profits from insurance with non-residents provided that if the relevant law in force in either Contracting State at the date of signature of the Agreement is varied (otherwise than in minor respects so as not to affect its general character) the Contracting States shall consult with each other with a view to agreeing to any amendment of this paragraph that may be appropriate.

Article 8

Operation of Ships and Aircraft

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

2. Notwithstanding the provisions of paragraph 1, such profits may also be taxed in the other Contracting State where they are profits from the operation of ships or aircraft confined solely to places in that other State.

3. For the purposes of this Article, profits from the operation of ships or aircraft shall include:

- (a) profits derived from the rental on a bare boat basis of ships or aircraft;
- (b) profits derived from the use or rental of containers;

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

4. The provisions of paragraphs 1 and 2 shall also apply to the share of the profits from the operation of ships or aircraft derived by an enterprise of a Contracting State through participation in a pool service, in a joint business or operating organisation or in an international operating agency.

5. For the purposes of this Article, profits derived from the carriage by ships or aircraft of passengers, livestock, mail, goods or merchandise which are shipped in a Contracting State for discharge at a place in that State shall be treated as profits from the operation of ships or aircraft confined solely to places in that State.

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

8. Niks in hierdie Artikel raak die werking van enige wet van 'n Kontrakterende Staat wat betrekking het op belasting opgelê op winste uit versekering met nie-inwoners nie, met dien verstande dat, indien die betrokke wet van krag in enigeen van die Kontrakterende State ten tye van datum van ondertekening van die Ooreenkoms, gewysig word (behalwe in geringe opsigte om nie die algemene aard aan te tas nie), die Kontrakterende State mekaar moet raadpleeg met die doel om ooreen te kom oor enige toepaslike wysiging aan hierdie paragraaf.

Artikel 8

Bedryf van Skepe en Vliegtuie

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

2. Ondanks die bepalings van paragraaf 1 kan sodanige winste ook in die ander Kontrakterende Staat belas word in soverre hulle winste is uit die bedryf van skepe of vliegtuie wat uitsluitlik tot plekke in daardie ander Staat beperk is.

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

- (a) winste verkry uit die verhuring op 'n sonder-bemanning-basis van skepe of vliegtuie;
- (b) winste verkry uit die gebruik of verhuring van houters;

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

4. Die bepalings van paragrawe 1 en 2 is ook van toepassing op die deel van die winste verkry uit die bedryf van skepe of vliegtuie deur 'n onderneming van 'n Kontrakterende Staat uit deelname aan 'n poeldiens, in 'n gesamentlike besigheid of bedryfsorganisasie of in 'n internasionale bedryfsagentskap.

5. Vir doeleindes van hierdie Artikel word winste verkry uit die vervoer deur skepe of vliegtuie van passasiers, lewende hawe, pos, goedere of handelsware wat in 'n Kontrakterende Staat aan boord geneem word om in 'n plek in daardie Staat afgelaai te word, behandel as winste uit die bedryf van skepe of vliegtuie wat slegs tot plekke in daardie Staat beperk 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) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

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

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

Article 10

Dividends

1. Dividends paid by a company which is a resident of a Contracting State for the purposes of its tax, being dividends which are beneficially owned by a resident of the other Contracting State, may be taxed in that other State.

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

- (a) in the case of New Zealand, 15 per cent of the gross amount of the dividends;
- (b) in the case of South Africa:
 - (i) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds at least 25 per cent of the capital of the company paying the dividends; or
 - (ii) 15 per cent of the gross amount of the dividends in all other cases.

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

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

- (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 dienoooreenkomstig belas word.

2. Waar 'n Kontrakterende Staat by die winste van 'n onderneming van daardie Staat winste insluit • en dit dienoooreenkomstig belas • waarop 'n onderneming van die ander Kontrakterende Staat in daardie ander Staat aan belasting onderhewig gestel is, en die winste aldus ingesluit, winste is wat redelikerwys verwag kon gewees het om aan die onderneming van eersgenoemde Staat toe te geval het indien die voorwaardes tussen die twee ondernemings gestel dieselfde sou gewees het wat redelikerwys verwag kon gewees het om tussen onafhanklike ondernemings wat geheel en al onafhanklik van mekaar optree, gestel te gewees het, dan kan daardie ander Staat die bedrag van die belasting op daardie winste gehef, toepaslik aanpas. By die vasstelling van sodanige aanpassing moet die ander bepalings van hierdie Ooreenkoms behoorlik in ag geneem word en die bevoegde owerhede van die Kontrakterende State mekaar, indien nodig, raadpleeg.

Artikel 10

Dividende

1. Dividende betaal deur 'n maatskappy wat 'n inwoner van 'n Kontrakterende Staat is vir doeleindes van sy belasting, synde dividende wat voordelig besit word deur 'n inwoner van die ander Kontrakterende Staat, kan in daardie ander Staat belas word.

2. Sodanige dividende kan egter ook in die Kontrakterende Staat waarvan die maatskappy wat die dividende betaal vir doeleindes van sy belasting 'n inwoner is, en ooreenkomstig die wette van daardie Staat, belas word, maar die belasting aldus opgelê, mag nie meer wees nie as:

- (a) in die geval van Nieu-Seeland, 15 persent van die bruto bedrag van die dividende;
- (b) in die geval van Suid-Afrika:
 - (i) 5 persent van die bruto bedrag van die dividende indien die bevoordeelde eienaar 'n maatskappy is wat minstens 25 persent hou van die kapitaal van die maatskappy wat die dividende betaal; of
 - (ii) 15 persent van die bruto bedrag van die dividende in alle ander gevalle.

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

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

3. The term "dividends" as used in this Article means income from shares and other income treated as income from shares by the laws, relating to tax, of the Contracting State of which the company making the payment is a resident for the purposes of its tax.

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

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State. This paragraph shall not apply in relation to dividends paid by any company which is a resident of both States for the purposes of each State's tax.

Article 11

Interest

1. Interest arising in a Contracting State, being interest which is beneficially owned by a resident of the other Contracting State, may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest derived by the Government of a Contracting State, or by a bank performing central banking functions in a Contracting State, shall be exempt from tax in the other Contracting State.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in 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, as well as all other income treated as income from money lent by the laws, relating to tax, of the Contracting State in which the income arises, but does not include any income which is treated as a dividend under Article 10. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

3. Die uitdrukking "dividende", soos in hierdie Artikel gebruik, beteken inkomste uit aandele en ander inkomste behandel as inkomste uit aandele deur die wette betreffende belasting van die Kontrakterende Staat waarvan die maatskappy wat die betaling maak, 'n inwoner vir doeleindes van sy belasting is.

4. Die bepalings van paragrafe 1 en 2 is nie van toepassing nie indien die voordelige eienaar van die dividende, synde 'n inwoner van 'n Kontrakterende Staat, 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 aandeelbesit 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.

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

Artikel 11

Rente

1. Rente wat in 'n Kontrakterende Staat ontstaan, synde rente wat voordelig besit word deur 'n inwoner van die ander Kontrakterende Staat, kan in daardie ander Staat belas word.

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

3. Ondanks die bepalings van paragraaf 2, word rente verkry deur die Regering van 'n Kontrakterende Staat, of deur 'n bank wat sentrale bankwerksaamhede in 'n Kontrakterende Staat verrig, in die ander Kontrakterende Staat van belasting vrygestel.

4. 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, asook alle ander inkomste wat as inkomste behandel word, vanaf geld geleen deur die wette betreffende belasting van die Kontrakterende Staat waarin die inkomste ontstaan, maar beteken nie enige inkomste wat as 'n dividend ingevolge Artikel 10 behandel word nie. Boeteheffings vir laat betaling word vir doeleindes van hierdie Artikel nie as rente beskou nie.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein 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.

6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether the person is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the debt-claim on which the interest is paid was incurred, and such interest is deductible in determining the income, profits or gains attributable to that permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.

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

Article 12

Royalties

1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State, may be taxed in that other State.

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

3. The term "royalties" as used in this Article means payments of any kind, whether periodical or not, and however described or computed, to the extent to which they are made as consideration for:

- (a) the use of, or the right to use, any copyright (including the use of or the right to use any literary, dramatic, musical, or artistic works, sound recordings, films, broadcasts, cable programmes, or typographical arrangements of published editions), patent, design or model, plan, secret formula or process, trade mark, or other like property or right; or
- (b) the use of, or the right to use, any industrial, commercial or scientific equipment; or
- (c) information concerning industrial, commercial or scientific experience; or

5. Die bepalings van paragrawe 1 en 2 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 bepalings van Artikel 7 van toepassing.

6. Rente word geag in 'n Kontrakterende Staat te ontstaan indien die betaler 'n inwoner van daardie Staat is. Waar die persoon wat die rente betaal, hetsy die persoon 'n inwoner van 'n Kontrakterende Staat is al dan nie, egter in 'n Kontrakterende Staat 'n permanente saak het in verband waarmee die skuld waarop die rente betaal word, aangegaan is, en sodanige rente is aftrekbaar by die vastelling van die inkomste, profyte of winste toeskryfbaar aan daardie permanente saak, dan word sodanige rente geag te ontstaan in die Staat waarin die permanente saak geleë is.

7. 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 ten opsigte waarvan dit betaal word, die bedrag te bowe gaan waaroor 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 oormatige deel van die betalings belasbaar ooreenkomstig die wette van elk van die Kontrakterende State, met behoorlike inagneming van die ander bepalings van hierdie Ooreenkoms.

Artikel 12

Tantième

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

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

3. Die uitdrukking "tantième" soos in hierdie Artikel gebruik, beteken betalings van enige aard, hetsy periodiek of nie, en hoe ook al omskryf of bereken, in die mate wat hulle gemaak word as vergoeding vir:

- (a) die gebruik van, of die reg op die gebruik van, enige outeursreg (met inbegrip van die gebruik van of die reg op die gebruik van enige letterkundige, toneel-, musikale, of artistieke werke, klankopnames, films, uitsendings, kabelprogramme, of tipografiese bewerkings van gepubliseerde uitgawes), patent, ontwerp of model, plan, geheime formule of proses, handelsmerk of ander soortgelyke eiendom of reg; of
- (b) die gebruik van, of die reg op die gebruik van, enige industriële, kommersiële of wetenskaplike toerusting; of
- (c) inligting aangaande industriële, kommersiële of wetenskaplike ondervinding; of

- (d) any assistance that is ancillary and subsidiary to, and is furnished as a means of enabling the application or enjoyment of, any such property or right as is mentioned in subparagraph (a), any such equipment as is mentioned in subparagraph (b) or any such knowledge or information as is mentioned in subparagraph (c); or
- (e) total or partial forbearance in respect of the use or supply of any property or right referred to in this paragraph.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein 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 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 deductible in determining the income, profits or gains attributable to that permanent establishment, then such royalties shall be deemed to arise in the State in which the permanent establishment is situated.

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

Article 13

Alienation of Property

1. Income, profits or gains derived by a resident of a Contracting State from the alienation of immovable property as defined in paragraph 2 of Article 6 situated in the other Contracting State may be taxed in that other State.

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

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

- (d) enige bystand wat bykomend is by en aanvullend is tot, en wat verskaf word as 'n wyse om die toepassing of genot van, enige sodanige eiendom of reg soos in subparagraaf (a) gemeld, enige sodanige toerusting soos in subparagraaf (b) gemeld of enige sodanige kennis of inligting soos in subparagraaf (c) gemeld; of
- (e) totale of gedeeltelike weerhouding ten opsigte van die gebruik of lewering van enige eiendom of reg waarna in hierdie paragraaf verwys word.

4. Die bepalings van paragrawe 1 en 2 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 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 aftrekbaar is by die vasstelling van die inkomste, profyte of winste toeskryfbaar aan daardie permanente saak, word sodanige tantième geag te ontstaan in die 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.

Artikel 13

Vervreemding van Eiendom

1. Inkomste, profyte of winste verkry deur 'n inwoner van 'n Kontrakterende Staat uit die vervreemding van onroerende eiendom, soos omskryf in paragraaf 2 van Artikel 6, wat in die ander Kontrakterende Staat geleë is, kan in daardie ander Staat belas word.

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

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

4. Income, profits or gains derived by a resident of a Contracting State from the alienation of any shares or other interests in a company, or of an interest of any kind in a partnership or trust or other entity, where the value of the assets of such entity, whether they are held directly or indirectly (including through one or more interposed entities, such as, for example, through a chain of companies), is principally attributable to immovable property situated in the other Contracting State, may be taxed in that other State.

5. Nothing in this Agreement affects the application of the laws of a Contracting State relating to the taxation of gains of a capital nature derived from the alienation of any property other than that to which any of the preceding paragraphs of this Article apply.

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 State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the year of income or year of assessment of that other State; and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- (c) the remuneration is not deductible in determining the taxable profits of a permanent establishment which the employer has in the other State.

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

Article 15

Directors' Fees

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

4. Inkomste, profyte of winste verkry deur 'n inwoner van 'n Kontrakterende Staat uit die vervreemding van enige aandele of ander belange in 'n maatskappy, of van 'n belang van enige aard in 'n vennootskap of trust of ander entiteit, waar die waarde van die bates van sodanige entiteit, hetsy hulle regstreeks of onregstreeks gehou word (insluitende deur middel van een of meer tussen-entiteite, soos, byvoorbeeld, deur middel van 'n ketting van maatskappye), wat hoofsaaklik toeskryfbaar is aan vaste eiendom geleë in die ander Kontrakterende Staat, kan in daardie ander Staat belas word.

5. Niks in hierdie Ooreenkoms raak die toepassing van die wette van 'n Kontrakterende Staat met betrekking tot die belasting van winste van 'n kapitale aard verkry uit die vervreemding van enige ander eiendom as dit waarop enige van die voorgaande paragrawe van hierdie Artikel van toepassing is.

Artikel 14

Inkomste uit 'n Diensbetrekking

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

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

- (a) die ontvanger in die ander Staat teenwoordig is vir 'n tydperk of tydperke wat altesaam nie 183 dae in enige tydperk van twaalf maande beginnende of eindigende in die betrokke jaar van inkomste of jaar van aanslag van daardie ander Staat, te bowe gaan nie; en
- (b) die besoldiging betaal word deur of namens 'n werkgewer wat nie 'n inwoner van die ander Staat is nie; en
- (c) die besoldiging nie aftrekbaar is by die bepaling van die belasbare winste van 'n permanente saak wat die werkgewer in die ander Staat het nie.

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

Artikel 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 Staat belas word.

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 that person's personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a 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.

Article 17***Pensions and Annuities***

1. Subject to paragraph 2 of Article 18, pensions and annuities paid to a resident of a Contracting State shall be taxable only in that State.

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

Article 18***Government Service***

1. Salaries, wages and other similar remuneration (other than pensions) paid by the Government of a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that Government or a political subdivision or a local authority thereof shall be exempt from tax in the other Contracting State if the individual is not resident in that other State for the purposes of that other State's tax or is resident in that other State for the purposes of that other State's tax solely for the purpose of rendering those services.

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

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

3. The provisions of Articles 14, 15 and 17 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with any trade or business carried on by a Contracting State or a political subdivision or a local authority thereof.

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 daardie persoon se persoonlike bedrywighede as sodanig, wat in die ander Kontrakterende Staat beoefen word, in daardie ander Staat belas word.

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

Artikel 17

Pensioene en Annuïteite

1. Behoudens die bepalings van paragraaf 2 van Artikel 18 is pensioene en annuïteite betaal aan 'n inwoner van 'n Kontrakterende Staat slegs in daardie Staat belasbaar.

2. Die uitdrukking "annuïteit" beteken 'n vermelde bedrag periodiek betaalbaar op vermelde tye gedurende lewe 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.

Artikel 18

Regeringsdiens

1. Salarisse, lone en ander soortgelyke besoldiging (uitgesonderd pensioene) betaal deur die Regering van 'n Kontrakterende Staat of 'n staatkundige onderafdeling of 'n plaaslike owerheid daarvan aan 'n individu ten opsigte van dienste gelewer aan daardie Regering of 'n staatkundige onderafdeling of 'n plaaslike owerheid daarvan, is in die ander Kontrakterende Staat van belasting vrygestel indien die individu nie in daardie ander Staat vir doeleindes van daardie ander Staat se belasting woonagtig is nie of in daardie ander Staat woonagtig is vir doeleindes van daardie ander Staat se belasting met die uitsluitlike doel om daardie dienste te lewer.

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

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

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

Article 19

Students

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

Article 20

Other Income

Items of income of a resident of a Contracting State, wherever arising, not dealt with in the preceding Articles of this Agreement shall be taxable only in that State unless that income is derived from sources within the other Contracting State, in which case that income may also be taxed in that other State.

Article 21

Elimination of Double Taxation

1. Subject to the provisions of the laws of New Zealand from time to time in force which relate to the allowance of a credit against New Zealand income tax of tax paid in a country outside New Zealand (which shall not affect the general principle of this Article), South African tax paid under the laws of South Africa and consistently with this Agreement, whether directly or by deduction, in respect of income derived by a resident of New Zealand from sources in South Africa (excluding, in the case of a dividend, tax paid in respect of the profits out of which the dividend is paid) shall be allowed as a credit against New Zealand tax payable in respect of that income.

2. 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, New Zealand tax paid by residents of South Africa in respect of income taxable in New Zealand, 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.

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 State in the same circumstances, in particular with respect to residence, are or may be subjected.

Artikel 19

Studente

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

Artikel 20

Ander Inkomste

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 Staat belasbaar tensy daardie inkomste uit bronne binne die ander Kontrakterende Staat verkry word, in welke geval daardie inkomste ook in daardie ander Staat belas kan word.

Artikel 21

Uitskakeling van Dubbele Belasting

1. Behoudens die bepalings van die wette van Nieu-Seeland wat van tyd tot tyd van krag is, wat betrekking het op die toestaan van 'n krediet teen Nieu-Seeland-inkomstebelasting van belasting betaal in 'n land buite Nieu-Seeland (wat nie die algemene beginsel van hierdie Artikel raak nie), word Suid-Afrikaanse belasting betaal ingevolge die wette van Suid-Afrika en wat bestaanbaar is met hierdie Ooreenkoms, hetsy regstreeks of as aftrekking, ten opsigte van inkomste verkry deur 'n inwoner van Nieu-Seeland uit bronne in Suid-Afrika (uitgesluit, in die geval van 'n dividend, belasting betaal ten opsigte van die profyte waaruit die dividend betaal word) as 'n krediet toegelaat teen Nieu-Seeland-belasting betaalbaar ten opsigte van daardie inkomste.

2. Behoudens die bepalings van die wette van Suid-Afrika betreffende die aftrekking vanaf belasting betaalbaar in Suid-Afrika van belasting betaalbaar in enige ander land as Suid-Afrika, moet Nieu-Seeland-belasting betaal deur inwoners van Suid-Afrika ten opsigte van inkomste belasbaar in Nieu-Seeland, ooreenkomstig die bepalings van hierdie Ooreenkoms afgetrek word 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.

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 Staat onder dieselfde omstandighede, veral met betrekking tot verblyf, onderworpe is of onderwerp kan word 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 State than the taxation levied on a permanent establishment which an enterprise of a third State has in that other State.

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

4. The provisions of this Article shall not be construed as obliging a Contracting State to grant to a resident 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.

5. This Article shall not apply to any provisions of the taxation laws of a Contracting State which:

- (a) are reasonably designed to prevent or defeat the avoidance or evasion of taxes; or
- (b) are in force on the date of signature of this Agreement, or are substantially similar in general purpose or intent to any such provision but are enacted after the date of signature of this Agreement, provided that any such provision (except where that provision is in an international agreement) does not allow for different treatment of residents of the other Contracting State as compared with the treatment of residents of any third State.

6. 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 New Zealand, a tax at a rate which does not exceed the rate of normal tax on companies by more than five percentage points.

7. If a Contracting State considers that taxation measures of the other Contracting State infringe the principles set forth in this Article, the competent authorities shall consult each other in an endeavour to resolve the matter.

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 the provisions of this Agreement, that person may, irrespective of the remedies provided by the domestic law of those States, present a case to the competent authority of the Contracting State of which the person is a resident. 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. Die belasting op 'n permanente saak wat 'n onderneming van 'n Kontrakterende Staat in die ander Kontrakterende Staat het, word nie in daardie ander Staat op 'n minder gunstige wyse gehef as die belasting gehef op 'n permanente saak wat 'n onderneming van 'n derde Staat in daardie ander Staat het nie.

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

4. Die bepalinge van hierdie Artikel mag nie uitgelê word nie as sou dit 'n Kontrakterende Staat verplig om aan 'n inwoner van die ander Kontrakterende Staat enige persoonlike kortings, verligtings en verminderinge vir belastingdoeleindes toe te staan uit hoofde van burgerlike status of gesinsverantwoordelikhede wat aan sy eie inwoners toegestaan word nie.

5. Hierdie Artikel is nie van toepassing nie op enige bepalinge van die belastingwette van 'n Kontrakterende Staat wat:

- (a) redelikerwys beoog om die vermyding of ontduiking van belastinge te verhoed of te veryd; of
- (b) op die datum van ondertekening van hierdie Ooreenkoms van krag is, of wat wesenlik dieselfde in algemene strekking of bedoeling met betrekking tot enige sodanige bepaling is, maar wat verorden word na die datum van ondertekening van hierdie Ooreenkoms, met dien verstande dat enige sodanige bepaling (behalwe waar daardie bepaling 'n internasionale ooreenkoms is) nie ander behandeling van inwoners van die ander Kontrakterende Staat as van inwoners van enige derde Staat toelaat nie.

6. Niks in hierdie Artikel verhoed Suid-Afrika daarvan om op profyte wat toegeskryf kan word aan 'n permanente saak in Suid-Afrika, van 'n maatskappy wat 'n inwoner van Nieu-Seeland 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.

7. Indien 'n Kontrakterende Staat van mening is dat die belastingmaatreëls van die ander Kontrakterende Staat inbreuk maak op die beginsels uiteengesit in hierdie Artikel, moet die bevoegde owerhede mekaar raadpleeg in 'n poging om die aangeleentheid op te los.

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 bepalinge van hierdie Ooreenkoms belas word nie, kan daardie persoon, ongeag die regsmiddels waarvoor die landsreg van daardie State voorsiening maak, 'n saak stel aan die bevoegde owerheid van die Kontrakterende Staat waarvan die persoon 'n inwoner is. Die saak moet gestel word binne drie jaar vanaf die eerste kennisgewing van die handeling wat gelei het tot belasting wat nie ooreenkomstig die bepalinge van die Ooreenkoms is nie.

2. The competent authority shall endeavour, if the objection appears to it to be justified and 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.

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 concerning taxes of every kind and description imposed on behalf of the Contracting States insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes referred to in the first sentence. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

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

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.

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.

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 bepalings van hierdie Ooreenkoms of van die landsreg van die Kontrakterende State aangaande belastings van enige aard en beskrywing opgelê namens die Kontrakterende State vir sover die belasting daarkragtens nie strydig met die Ooreenkoms is nie. Die uitruil van inligting word nie deur Artikels 1 en 2 beperk nie. Enige inligting ontvang deur 'n Kontrakterende Staat word as geheim behandel op dieselfde wyse as inligting wat ingevolge die landsreg van daardie Staat verkry word en word openbaar gemaak slegs aan persone of owerhede (met inbegrip van howe en administratiewe liggame) betrokke by die aanslaan of invordering van, die afdwing of vervolging ten opsigte van, of die beslissing van appèlle in verband met, die belastings bedoel in die eerste sin. Sodanige persone of owerhede gebruik die inligting slegs vir sodanige doeleindes. Hulle mag die inligting by openbare hofverrigtinge of by regterlike beslissings openbaar maak.

2. In geen geval mag die bepalings van paragraaf 1 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 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 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 bepalings van spesiale ooreenkomste nie.

Article 26

Entry into Force

This Agreement shall enter into force on the last date on which the Contracting States exchange notes through the diplomatic channel notifying each other that the last of such things has been done as is necessary to give the Agreement the force of law in New Zealand and in South Africa, as the case may be, and, in that event, the Agreement shall have effect:

- (a) in New Zealand:
 - (i) in respect of withholding tax on income, profits or gains derived by a non-resident, for amounts paid or credited on or after the first day of the second month next following the date on which the Agreement enters into force;
 - (ii) in respect of other New Zealand tax, for any income year beginning on or after 1 April next following the date on which the Agreement enters into force;
- (b) in South Africa:
 - (i) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of the second month next following the date on which the Agreement enters into force; and
 - (ii) with regard to other taxes, in respect of years of assessment beginning on or after the first day of January next following the date upon which the Agreement enters into force.

Article 27

Termination

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through the diplomatic channel, by giving notice of termination on or before 30 June in any calendar year beginning after the expiration of 5 years from the date of its entry into force. In such event the Agreement shall cease to have effect:

- (a) in New Zealand:
 - (i) in respect of withholding tax on income, profits or gains derived by a non-resident, for amounts paid or credited on or after the first day of the second month next following that in which the notice of termination is given;
 - (ii) in respect of other New Zealand tax, for any income year beginning on or after 1 April in the calendar year next following that in which the notice of termination is given;

Artikel 26***Inwerkingtreding***

Hierdie Ooreenkoms tree in werking op die laaste dag waarop die Kontrakterende State deur middel van die diplomatieke kanaal notas uitruil waarin hulle mekaar in kennis stel dat die laaste van sodanige sake wat nodig is om die Ooreenkoms regs krag te gee in Nieu-Seeland en in Suid-Afrika, na gelang van die geval, gedoen is en dat, in daardie geval, die Ooreenkoms in werking tree:

- (a) in Nieu-Seeland:
 - (i) ten opsigte van terughoudingsbelasting op inkomste, profyte of winste verkry deur 'n nie-inwoner, vir bedrae betaal of gekrediteer op of ná die eerste dag van die tweede maand eersvolgende op die datum waarop die Ooreenkoms in werking tree;
 - (ii) ten opsigte van ander Nieu-Seeland-belasting, vir enige inkomstejaar beginnende op of ná 1 April eersvolgende op die datum waarop die Ooreenkoms in werking tree;
- (b) in Suid-Afrika:
 - (i) met betrekking tot belastings wat by die bron teruggehou word, ten opsigte van bedrae betaal of gekrediteer op of ná die eerste dag van die tweede maand eersvolgende op die datum waarop die Ooreenkoms in werking tree; en
 - (ii) met betrekking tot ander belastings, ten opsigte van jare van aanslag beginnende op of ná die eerste dag van Januarie eersvolgende op die datum waarop die Ooreenkoms in werking tree.

Artikel 27***Opsegging***

Hierdie Ooreenkoms bly van krag totdat dit deur 'n Kontrakterende Staat opgesê word. Enigeen van die Kontrakterende State kan die Ooreenkoms deur middel van die diplomatieke kanaal opse deur skriftelik kennis van opsegging te gee op of voor 30 Junie in enige kalenderjaar beginnende ná die verstryking van 5 jaar vanaf die datum van inwerkingtreding daarvan. In sodanige geval is die Ooreenkoms nie meer van krag nie:

- (a) in Nieu-Seeland:
 - (i) ten opsigte van terughoudingsbelasting op inkomste, profyte of winste verkry deur 'n nie-inwoner, vir bedrae betaal of gekrediteer op of ná die eerste dag van die tweede maand eersvolgende op dié waarin die kennis van opsegging gegee is;
 - (ii) ten opsigte van ander Nieu-Seeland-belasting, vir enige inkomste jaar beginnende op of ná 1 April in die kalenderjaar eersvolgende op dié waarin kennis van opsegging gegee is;

- (b) in South Africa:
- (i) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of the second month next following that in which the notice of termination is given; and
 - (ii) with regard to other taxes, in respect of years of assessment beginning after the end of the calendar year in which such notice is given.

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

DONE in duplicate at Pretoria this 6th day, of February 2002 in the English language.

**A G H PAHAD
FOR THE GOVERNMENT OF
THE REPUBLIC OF SOUTH AFRICA**

**P GOFF
FOR THE GOVERNMENT OF
NEW ZEALAND**

Protocol

The Government of the Republic of South Africa and the Government of New Zealand

Have agreed at the signing of the Agreement between the Governments of the two Contracting States for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income upon the following provision which shall form an integral part of the Agreement:

If, in an agreement for the avoidance of double taxation that may subsequently be concluded between South Africa and a third State, the rate at which South Africa may impose the secondary tax on companies is limited, South Africa shall immediately inform the Government of New Zealand in writing through the diplomatic channel and shall enter into negotiations with the Government of New Zealand with a view to providing comparable treatment for New Zealand as may be provided for the third State.

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

DONE in duplicate at Pretoria this 6th day of February 2002 in the English language.

**A G H PAHAD
FOR THE GOVERNMENT OF
THE REPUBLIC OF SOUTH AFRICA**

**P GOFF
FOR THE GOVERNMENT OF
NEW ZEALAND**

(b) in Suid-Afrika:

- (i) met betrekking tot belastinge wat by die bron teruggehou word, ten opsigte van bedrae betaal of gekrediteer op of ná die eerste dag van die tweede maand eersvolgende op dié waarin die kennis van opsegging gegee is; en
- (ii) met betrekking tot ander belastinge, ten opsigte van jare van aanslag beginnende ná die einde van die kalenderjaar waarin sodanige kennis gegee is.

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

GEDOEN in tweevoud, te Pretoria, op hede die 6de dag van Februarie 2002 in die Engelse taal.

A G H PAHAD
NAMENS DIE REGERING VAN DIE
REPUBLIEK VAN SUID-AFRIKA

P GOFF
NAMENS DIE REGERING VAN
NIEU-SEELAND

Protokol

Die Regering van die Republiek van Suid-Afrika en die Regering van Nieu-Seeland

Het by die ondertekening van die Ooreenkoms tussen die Regerings van die twee Kontrakterende State vir die vermyding van dubbele belasting en die voorkoming van fiskale ontduiking met betrekking tot belastinge op inkomste op die volgende bepalings ooreengekom wat 'n integrerende deel van die Ooreenkoms sal vorm:

Indien, in 'n ooreenkoms vir die vermyding van dubbele belasting wat daarna tussen Suid-Afrika en 'n derde Staat gesluit word, die koers waarteen Suid-Afrika die sekondêre belasting op maatskappye kan oplê, beperk word, sal Suid-Afrika onmiddellik die Regering van Nieu-Seeland skriftelik langs die diplomatieke kanaal in kennis stel en onderhandeling met die Regering van Nieu-Seeland aanknoop met die oog daarop om vergelykbare behandeling vir Nieu-Seeland te gee as wat aan die derde Staat gegee word.

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

GEDOEN in tweevoud, te Pretoria, op hede die 6de dag van Februarie 2002 in die Engelse taal.

A G H PAHAD
NAMENS DIE REGERING VAN DIE
REPUBLIEK VAN SUID-AFRIKA

P GOFF
NAMENS DIE REGERING VAN
NIEU-SEELAND



Looking for out of print issues of Government and Provincial Gazettes

We can provide photocopies

Contact

The National Library of South Africa,
Pretoria Campus
PO Box 397
0001 PRETORIA

Physical address

C/o Andries and Vermeulen Streets
Entrance in Andries Street

Contact details

Tel: (012) 321-8931

Fax: (012) 325-5984

E-mail: infodesk@nlsa.ac.za

Dog ate your Gazette? ... read it online



www.SA Gazettes.co.za

.....

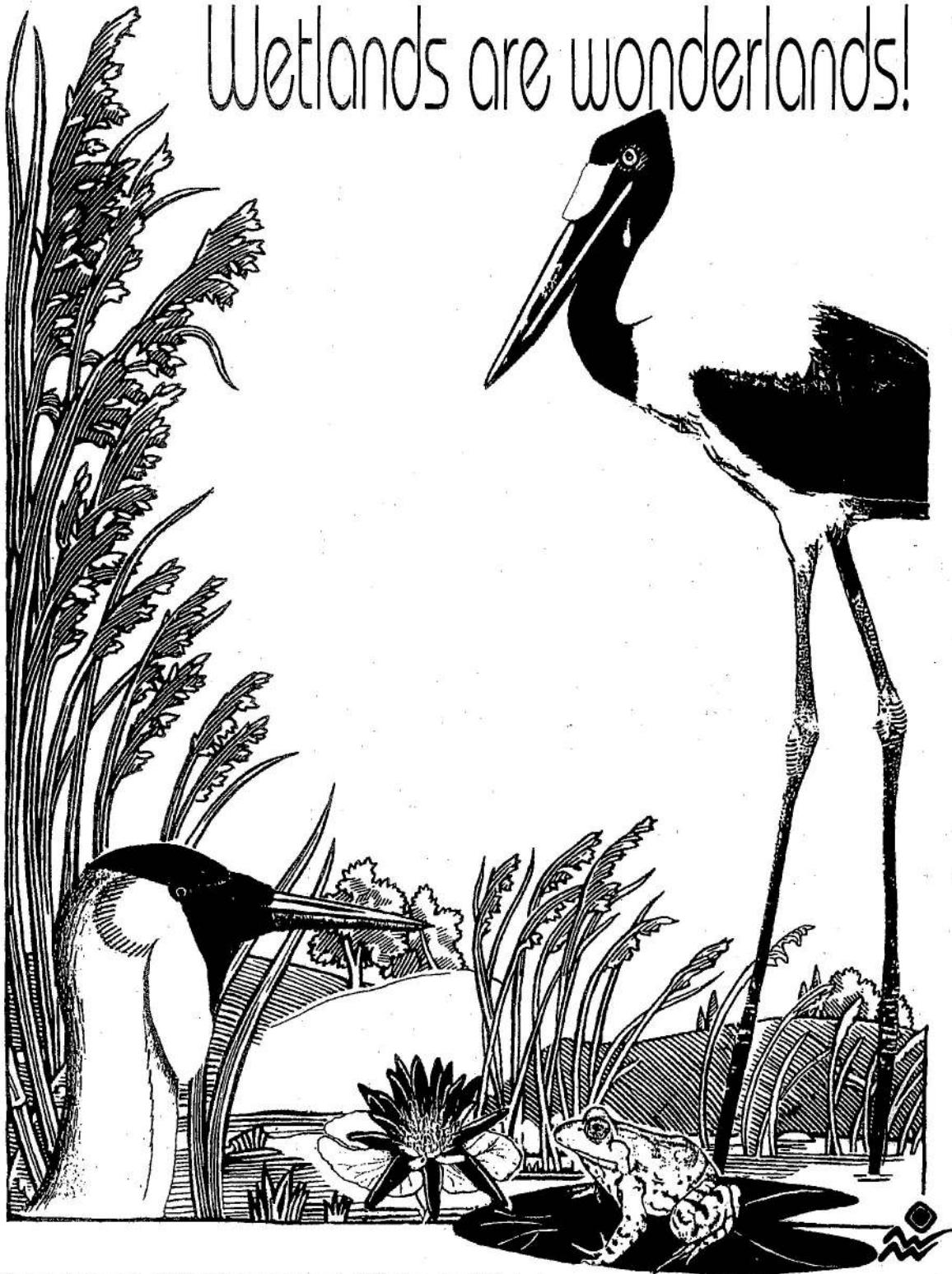
A new information Portal keeping you up to date with news, legislation, the Parliamentary programme and which is the largest pool of SA Gazette information available on the Web.

- Easily accessible through the www!
 - Government Gazettes - from January 1994
 - Compilations of all Indexes pertaining to the past week's Government Gazettes
 - All Provincial Gazettes - from September 1995
 - Parliamentary Bills - as of January 1999
- Available in full-text, with keyword searching
- Sabinet Online scans, formats, edits and organize information for you. Diagrams and forms included as images.
- No stacks of printed gazettes - all on computer. Think of the storage space you save.
- Offers Bill Tracker - complementing the SA Gazettes products.

For easy electronic access to full-text gazette info, subscribe to the SA Gazettes from Sabinet Online. Please visit us at www.sagazettes.co.za

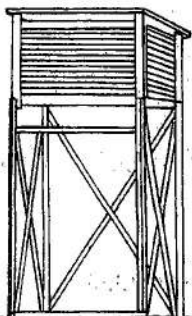
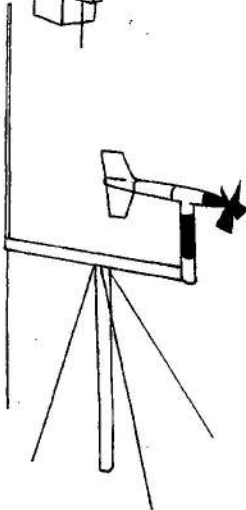
Sabinet
Online

Wetlands are wonderlands!

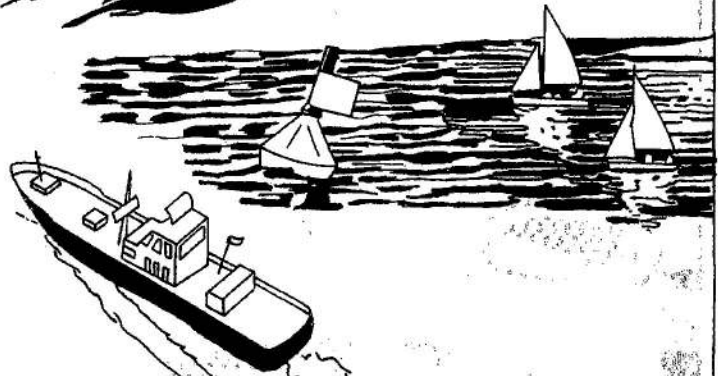
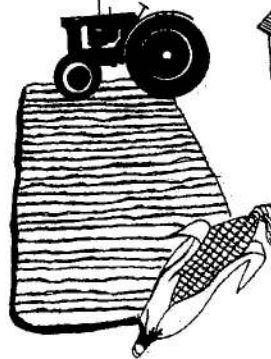
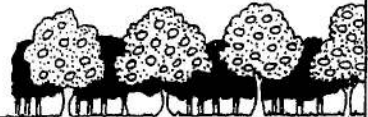
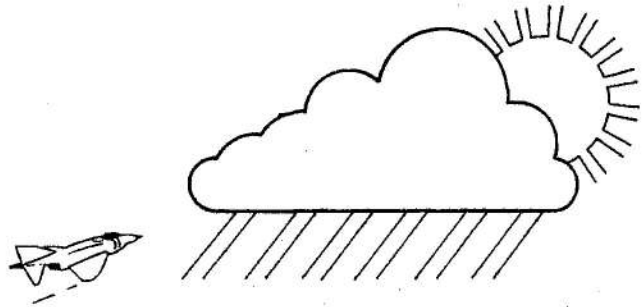


Department of Environmental Affairs and Tourism

SA WEATHER BUREAU SA WEERBURO



**W
E
A
T
H
E
R
·
S
E
R
V
I
C
E
S
·
W
E
E
R
D
I
E
N
S
T
E**





Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001

Publications: Tel: (012) 334-4508, 334-4509, 334-4510

Advertisements: Tel: (012) 334-4673, 334-4674, 334-4504

Subscriptions: Tel: (012) 334-4735, 334-4736, 334-4737

Cape Town Branch: Tel: (021) 465-7531

Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaatsak X85, Pretoria, 0001

Publikasies: Tel: (012) 334-4508, 334-4509, 334-4510

Advertensies: Tel: (012) 334-4673, 334-4674, 334-4504

Subskripsies: Tel: (012) 334-4735, 334-4736, 334-4737

Kaapstad-tak: Tel: (021) 465-7531