

REPUBLIC
OF
SOUTH AFRICA



REPUBLIEK
VAN
SUID-AFRIKA

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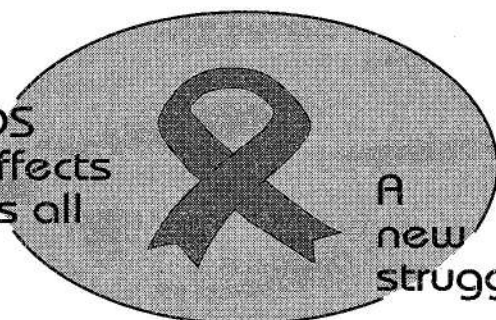
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DESEMBER 1999

No. 20728

We all have the power to prevent AIDS

AIDS
affects
us all



A
new
struggle

Prevention is the cure

AIDS

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DEPARTMENT OF HEALTH

GOVERNMENT NOTICE
GOEWERMENTSKENNISGEWING

SOUTH AFRICAN REVENUE SERVICE
SUID-AFRIKAANSE INKOMSTEDIENS

No. 1508

15 December 1999

INCOME TAX ACT, 1962

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

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

It is further notified in terms of paragraph 1 of Article 28 of the Convention, that the date of entry into force is 10 December 1999.

No. 1508

15 Desember 1999

INKOMSTEBELASTINGWET, 1962**KONVENSIE TUSSEN DIE REPUBLIEK VAN SUID-AFRIKA EN DIE REPUBLIEK TUNISIË VIR DIE VERMYDING VAN DUBBELE BELASTING EN DIE VOORKOMING VAN FISKALE ONTDUIKING MET BETREKKING TOT BELASTINGS OP INKOMSTE**

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

Daar word verder bekendgemaak dat ingevolge paragraaf 1 van Artikel 28 van die Konvensie, die datum van inwerkingtreding 10 Desember 1999 is.

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

Preamble

The Government of the Republic of South Africa and the Government of the Republic of Tunisia

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

Article 2

Taxes Covered

1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which the Convention shall apply are in particular:
 - (a) in the case of South Africa:
 - (i) the normal tax; and
 - (ii) the secondary tax on companies;(hereinafter referred to as "South African tax"); and

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

Aanhef

Die Regering van die Republiek van Suid-Afrika en die Regering van die Republiek Tunisië

Het, uit 'n begeerte om 'n Konvensie te sluit vir die vermyding van dubbele belasting en die voorkoming van fiskale ontduiking met betrekking tot belasting op inkomste,

Soos volg ooreengekom:

Artikel 1

Persone Gedek

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

Artikel 2

Belastings Gedek

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

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

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

(a) in die geval van Suid-Afrika:

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

(hierna "Suid-Afrikaanse belasting" genoem); en

(b) in the case of Tunisia:

- (i) the income tax; and
- (ii) the corporation tax;

(hereinafter referred to as "Tunisian tax").

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

Article 3

General Definitions

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

- (a) the terms "a Contracting State" and "the other Contracting State" mean South Africa or Tunisia, as the context requires;
- (b) the term "South Africa" means the Republic of South Africa and, when used in a geographical sense, includes the territorial sea thereof as well as any area outside the territorial sea, including the continental shelf, which has been or may hereafter be designated, in accordance with international law, as an area within which South Africa may exercise sovereign rights or jurisdiction;
- (c) the term "Tunisia" means the territory of the Republic of Tunisia including any area adjacent to the territorial waters of Tunisia over which, in accordance with international law, Tunisia may exercise rights pertaining to the sea-bed, marine subsoil and to their natural resources;
- (d) the term "company" means any body corporate or any entity which is treated as a company or body corporate for tax purposes;
- (e) the term "person" includes an individual, a company and any other body of persons which is treated as an entity for tax purposes;
- (f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (g) the term "national" means:
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) any legal person or association deriving its status as such from the laws in force in a Contracting State;
- (h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State; and

(b) in die geval van Tunisië:

- (i) die inkomstebelasting; en
- (ii) die maatskappybelasting;

(hierna "Tunisiëse belasting" genoem).

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

Artikel 3

Algemene Woordomsrywings

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

- (a) beteken die uitdrukkings "'n Kontrakterende Staat" en "die ander Kontrakterende Staat" Suid-Afrika of Tunisië, na gelang die samehang vereis;
- (b) beteken die uitdrukking "Suid-Afrika" die Republiek van Suid-Afrika en, wanneer in geografiese verband gebruik, ook die territoriale waters daarvan asook enige deel buite die territoriale waters, met inbegrip van die kontinentale plat, wat ingevolge die reg van Suid-Afrika en ooreenkomstig die volkereg aangewys is of hierna aangewys word as 'n deel waarbinne Suid-Afrika soewereine regte of jurisdiksie mag uitoefen;
- (c) beteken die uitdrukking "Tunisië" die grondgebied van die Republiek Tunisië met inbegrip van enige deel aangrensend aan die territoriale waters van Tunisië, waaroor Tunisië, ooreenkomstig die volkereg, regte met betrekking tot die seebodem, marine ondergrond en die natuurlike hulpbronne daarvan mag uitoefen;
- (d) beteken die uitdrukking "maatskappy" enige regspersoon of enige entiteit wat vir belastingdoeleindes as 'n maatskappy of regspersoon behandel word;
- (e) beteken die uitdrukking "persoon" ook 'n individu, 'n maatskappy en enige ander liggaam van persone wat vir belastingdoeleindes as 'n entiteit behandel word;
- (f) beteken die uitdrukkings "onderneming van 'n Kontrakterende Staat" en "onderneming van die ander Kontrakterende Staat" onderskeidelik 'n onderneming bedryf deur 'n inwoner van 'n Kontrakterende Staat en 'n onderneming bedryf deur 'n inwoner van die ander Kontrakterende Staat;
- (g) beteken die uitdrukking "burger":
 - (i) enige individu wat burgerskap van 'n Kontrakterende Staat besit;
 - (ii) enige regspersoon of vereniging wat sy status as sodanig verkry van die wette wat in 'n Kontrakterende Staat van krag is;
- (h) beteken die uitdrukking "internasionale verkeer" enige vervoer per skip of vliegtuig bedryf deur 'n onderneming wat sy plek van effektiewe bestuur in 'n Kontrakterende Staat het, behalwe wanneer die skip of vliegtuig uitsluitlik tussen plekke in die ander Kontrakterende Staat bedryf word; en

(i) the term "competent authority" means:

- (i) in the case of South Africa, the Commissioner for the South African Revenue Service or his authorised representative;
- (ii) in the case of Tunisia, the Minister of Finance or his authorised representative.

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

Article 4

Resident

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

- (a) in the case of South Africa, any individual who is ordinarily resident in South Africa and any person, other than an individual, which has its place of effective management in South Africa;
- (b) in the case of Tunisia, any person who, under the laws of Tunisia, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature;
- (c) that State and any political subdivision or local authority thereof.

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

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

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

- (i) beteken die uitdrukking "bevoegde owerheid":
 - (i) in die geval van Suid-Afrika, die Kommissaris vir die Suid-Afrikaanse Inkomstediens of sy gemagtigde verteenwoordiger;
 - (ii) in die geval van Tunisië, die Minister van Finansies of sy gemagtigde verteenwoordiger.

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

Artikel 4

Inwoner

1. By die toepassing van hierdie Konvensie beteken die uitdrukking "inwoner van 'n Kontrakterende Staat":
 - (a) in die geval van Suid-Afrika, enige persoon wat gewoonlik in Suid-Afrika woonagtig is en enige ander persoon, behalwe 'n individu, wat sy plek van effektiewe bestuur in Suid-Afrika het;
 - (b) in die geval van Tunisië, enige persoon wat, kragtens die wette van Tunisië, daarin belastingplichtig is uit hoofde van sy domisilie, verblyf, plek van bestuur of enige ander soortgelyke maatstaf;
 - (c) daardie Staat en enige staatkundige onderverdeling of plaaslike owerheid daarvan.
2. Waar 'n individu uit hoofde van die bepalings van paragraaf 1 'n inwoner van beide Kontrakterende State is, word sy status soos volg bepaal:
 - (a) hy word geag 'n inwoner te wees slegs van die Staat waarin hy 'n permanente tuiste tot sy beskikking het; indien hy in beide State 'n permanente tuiste tot sy beskikking het, word hy geag 'n inwoner te wees slegs van die Staat waarmee sy persoonlike en ekonomiese betrekkinge die nouste is (tuiste van lewensbelange);
 - (b) indien daar nie bepaal kan word in watter Staat hy sy tuiste van lewensbelange het nie, of indien hy nie 'n permanente tuiste in enigeen van die State tot sy beskikking het nie, word hy geag 'n inwoner te wees slegs van die Staat waarin hy 'n gebruikelike verblyfplek het;
 - (c) indien hy 'n gebruikelike verblyfplek in beide State het, of in geeneen van hulle nie, word hy geag 'n inwoner te wees slegs van die Staat waarvan hy 'n burger is;
 - (d) indien hy 'n burger van beide State is, of van geeneen van hulle nie, beslis die bevoegde owerhede van die Kontrakterende State die saak deur middel van onderlinge ooreenkoms.
3. Waar uit hoofde van die bepalings van paragraaf 1 'n ander persoon as 'n individu 'n inwoner van beide Kontrakterende State is, word hy geag 'n inwoner te wees slegs van die Staat waarin sy plek van effektiewe bestuur geleë is.

Article 5

Permanent Establishment

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

2. The term "permanent establishment" includes especially:

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

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

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

- (a) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or for collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character; and
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 7 applies - is acting in a Contracting State on behalf of the enterprise of the other Contracting State, the enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:

- (a) has and habitually exercises in the first-mentioned State, an authority to conclude contracts on behalf of the enterprise;

Artikel 5***Permanente Saak***

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

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

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

3. 'n Bouterrein, 'n konstruksie-, installasie- of monteerprojek of enige toesighoudende bedrywigheid in verband met sodanige terrein of projek, maak 'n permanente saak uit slegs indien sodanige terrein, projek of bedrywigheid langer as ses maande bestaan.

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

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

5. Ondanks die bepalings van paragrafe 1 en 2, waar 'n persoon - uitgesonderd 'n agent met 'n onafhanklike status op wie paragraaf 7 van toepassing is - in 'n Kontrakterende Staat namens die onderneming van die ander Kontrakterende Staat optree, word die onderneming geag 'n permanente saak in eersgenoemde Kontrakterende Staat te hê ten opsigte van enige bedrywigheide wat daardie persoon namens die onderneming onderneem, indien so 'n persoon:

- (a) magtiging het, en dit gewoonlik uitoefen, om in eersgenoemde Staat kontrakte namens die onderneming te sluit;

- (b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders or makes deliveries on behalf of the enterprise; or
- (c) has no such authority, but habitually secures orders in the first-mentioned State wholly or mainly for the enterprise.

6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to reinsurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.

7. 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.

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

Article 6

Income from Immovable Property

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

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

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

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

- (b) geen sodanige magtiging het nie, maar gewoonlik in die eersgenoemde Staat 'n voorraad goedere of handelsware wat aan die onderneming behoort in stand hou waaruit hy gereeld bestellings uitvoer of afleverings doen namens die onderneming; of
- (c) geen sodanige magtiging het nie, maar gewoonlik bestellings in eersgenoemde Staat verkry geheel en al of hoofsaaklik vir die onderneming.

6. Ondanks die voorgaande bepalings van hierdie Artikel word 'n versekeringsonderneming van 'n Kontrakterende Staat, behalwe in die geval van herversekering, geag 'n permanente saak in die ander Kontrakterende Staat te hê indien hy premies in die grondgebied van daardie ander Staat invorder of risiko's daarin geleë verseker deur middel van 'n ander persoon as 'n agent met 'n onafhanklike status op wie paragraaf 7 van toepassing is.

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

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

Artikel 6

Inkomste uit Onroerende Eiendom

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

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

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

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

Article 7

Business Profits

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

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

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

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

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

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

Article 8

Shipping and Air Transport

1. Profits derived from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

Artikel 7

Besigheidswinste

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

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

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

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

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

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

Artikel 8

Skeepvaart en Lugvervoer

1. Winste verkry uit die bedryf van skepe of vliegtuie in internasionale verkeer is slegs in die Kontrakterende Staat waarin die plek van effektiewe bestuur van die onderneming geleë is, belasbaar.

2. The provisions of paragraph 1 shall also apply to profits derived from the use or rental of containers in international traffic.

3. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

4. Profits derived from the operation of ships or aircraft operated solely between places which are situated in a Contracting State shall be taxable only in that State.

5. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

Associated Enterprises

1. Where:

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

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

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

Article 10

Dividends

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

2. Die bepaling van paragraaf 1 is ook van toepassing op winste verkry uit die gebruik of verhuring van houters in internasionale verkeer.

3. Indien die plek van effektiewe bestuur van 'n skeepvaartonderneming aan boord van 'n skip is, word dit geag geleë te wees in die Kontrakterende Staat waarin die tuishawe van die skip geleë is, of, indien daar geen sodanige tuishawe is nie, in die Kontrakterende Staat waarvan die operateur van die skip 'n inwoner is.

4. Winste verkry uit die bedryf van skepe of vliegtuie wat uitsluitlik tussen plekke wat in 'n Kontrakterende Staat geleë is, bedryf word, is slegs in daardie Staat belasbaar.

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

Artikel 9

Verwante Ondernemings

1. Waar:

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

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

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

Artikel 10

Dividende

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

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

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

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

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

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

Article 11

Interest

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

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

- (a) 5 per cent of the gross amount of the interest in respect of loans made by banks;
- (b) 12 per cent of the gross amount of the interest in all other cases.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and derived by the Government of the other Contracting State, a political subdivision or a local authority thereof or the Central Bank of that other Contracting State, shall be exempt from tax in the first-mentioned Contracting State.

2. Sodanige dividende kan egter ook in die Kontrakterende Staat waarvan die maatskappy wat die dividende betaal 'n inwoner is, en ooreenkomstig die wette van daardie Staat, belas word, maar indien die ontvanger die bevoordeelde eienaar van die dividende is, is die belasting aldus opgelê nie meer nie as 10 persent van die bruto bedrag van die dividende.

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

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

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

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

Artikel 11

Rente

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

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

- (a) 5 persent van die bruto bedrag van die rente ten opsigte van lenings deur banke gemaak;
- (b) 12 persent van die bruto bedrag van die rente in alle ander gevalle.

3. Ondanks die bepalinge van paragraaf 2, word rente wat in 'n Kontrakterende Staat ontstaan en verkry word deur die Regering van die ander Kontrakterende Staat, 'n staatkundige onderverdeling of 'n plaaslike owerheid daarvan of die Sentrale Bank van daardie ander Kontrakterende Staat, vrygestel van belasting in die eersgenoemde Kontrakterende Staat.

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

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

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

Article 12

Royalties

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

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

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

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

5. Die bepalings van paragrafe 1, 2 en 3 is nie van toepassing nie indien die bevoordeelde eienaar van die rente, synde 'n inwoner van 'n Kontrakterende Staat, in die ander Kontrakterende Staat waarin die rente ontstaan, besigheid dryf deur middel van 'n permanente saak daarin geleë, of in daardie ander Staat onafhanklike persoonlike dienste verrig vanaf 'n vaste basis daarin geleë, en die skuldeis ten opsigte waarvan die rente betaal word, effektief verbonde is met sodanige permanente saak of vaste basis. In sodanige geval, is die bepalings van Artikel 7 of Artikel 14, na gelang van die geval, van toepassing.

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

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

Artikel 12

Tantièmes

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

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

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

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

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

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

Article 12A

Technical Fees

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

2. However, such technical fees may also be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the recipient is the beneficial owner of the technical fees, the tax so charged shall not exceed 12 per cent of the gross amount of the technical fees.

3. The term "technical fees" as used in this Article means payments of any kind to any person, other than an employee of the person making the payments, in consideration for any services such as technical and economic studies and technical assistance and other services of a technical or consultancy nature.

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

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

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

6. Waar, vanweë 'n besondere verband tussen die betaler en die bevoordeelde eienaar of tussen albei van hulle en 'n ander persoon, die bedrag van die tantièmes betaal, met inagneming van die gebruik, reg of inligting waarvoor dit betaal word, die bedrag te bowe gaan waarvoor die betaler en die bevoordeelde eienaar by ontstentenis van sodanige verband sou ooreengekom het, is die bepalings van hierdie Artikel siegs 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 Konvensie.

Artikel 12A

Tegniese Gelde

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

2. Sodanige tegniese gelde kan egter ook in die Kontrakterende Staat waarin hulle ontstaan en ooreenkomstig die wette van daardie Staat belas word, maar indien die ontvanger die bevoordeelde eienaar van die tegniese gelde is, gaan die belasting aldus gehef, nie 12 persent van die bruto bedrag van die tegniese gelde te bowe nie.

3. Die uitdrukking "tegniese gelde" soos in hierdie Artikel gebesig, beteken betalings van enige aard aan enige persoon, behalwe 'n werknemer van die persoon wat die betalings doen, as vergoeding vir enige dienste soos tegniese en ekonomiese studies en tegniese bystand en ander dienste van 'n tegniese of konsulerende aard.

4. Die bepalings van paragrafe 1 en 2 van hierdie Artikel is nie van toepassing nie indien die bevoordeelde eienaar van die tegniese gelde, synde 'n inwoner van 'n Kontrakterende Staat, in die ander Kontrakterende Staat waarin die tegniese gelde ontstaan, besigheid dryf deur middel van 'n permanente saak daarin geleë, of in daardie ander Staat onafhanklike persoonlike dienste lewer vanaf 'n vaste basis daarin geleë, en die tegniese gelde effektief verbonde is met sodanige permanente saak of vaste basis. In sodanige geval, is die bepalings van Artikel 7 of Artikel 14, na gelang van die geval, van toepassing.

5. Technical fees shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the technical fees, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the obligation to pay the technical fees was incurred, and such technical fees are borne by such permanent establishment or fixed base, then such technical fees shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the technical fees paid exceeds, for whatever reason, 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 law of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13

Capital Gains

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

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

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

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

5. Tegnieise gelde word geag in 'n Kontrakterende Staat te ontstaan wanneer die betaler 'n inwoner van daardie Staat is. Waar die persoon wat die tegnieise gelde betaal, hetsy hy 'n inwoner van 'n Kontrakterende Staat is al dan nie, egter in 'n Kontrakterende Staat 'n permanente saak of 'n vaste basis het in verband waarmee die verpligting om die tegnieise gelde te betaal, aangegaan is, en sodanige tegnieise gelde deur sodanige permanente saak of vaste basis gedra word, word sodanige tegnieise gelde geag te ontstaan in die Kontrakterende Staat waarin die permanente saak of vaste basis geleë is.

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

Artikel 13

Kapitaalwinste

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

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

3. Winste uit die vervreemding van skepe of vliegtuie wat in internasionale verkeer bedryf word of roerende eiendom wat betrekking het op die bedryf van sodanige skepe of vliegtuie, is slegs in die Kontrakterende Staat waarin die plek van effektiewe bestuur van die onderneming geleë is, belasbaar.

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

Article 14

Independent Personal Services

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

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

Article 15

Dependent Personal Services

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

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

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

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, shall be taxed only in the Contracting State in which the place of effective management of the enterprise is situated.

Artikel 14***Onafhanklike Persoonlike Dienste***

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

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

Artikel 15***Afhanklike Persoonlike Dienste***

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

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

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

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

Article 16***Directors' Fees***

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

Article 17***Entertainers and Sportspersons***

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

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

Article 18***Pensions and Annuities***

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

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

Article 19***Government Service***

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

Artikel 16***Direkteursgelde***

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

Artikel 17***Verhoogkunstenaars en Sportlui***

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

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

Artikel 18***Pensioene en Annuïteite***

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

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

Artikel 19***Regeringsdiens***

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

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

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

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

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

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

Article 20

Students, Apprentices and Business Trainees

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

Article 21

Other Income

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

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

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

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

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

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

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

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

Artikel 20

Studente, Vakleerlinge en Besigheidsleerlinge

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

Artikel 21

Ander Inkomste

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

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

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

Article 22***Elimination of Double Taxation***

1. (a) Where a resident of a Contracting State derives income which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident, an amount equal to the tax paid in that other Contracting State. Such deduction shall not, however, exceed an amount which bears to the total tax payable in the first-mentioned State the same ratio as the income concerned bears to the total income.

(b) Where a dividend is distributed by a company which is a resident of a Contracting State to a resident of the other Contracting State who owns, directly or indirectly, not less than 5 per cent of the share capital of the distributing company, the deduction in subparagraph (a) shall take into account the tax paid by that company on the profits out of which the dividend is paid.

2. For the purposes of subparagraphs (a) and (b) of paragraph 1 of this Article, the term "tax paid in that other Contracting State" shall be deemed to include the amount of tax which would have been paid but for an exemption or reduction granted in accordance with laws designed to promote economic development in that other Contracting State.

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

Article 23***Non-discrimination***

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

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

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

1. (a) Waar 'n inwoner van 'n Kontrakterende Staat inkomste verkry wat, ooreenkomstig die bepalinge van hierdie Konvensie, in die ander Kontrakterende Staat belas kan word, laat eersgenoemde Staat as 'n aftrekking van belasting op die inkomste van daardie inwoner, 'n bedrag gelyk aan die belasting betaal in daardie ander Kontrakterende Staat, toe. Sodanige aftrekking gaan egter nie 'n bedrag wat in dieselfde verhouding tot die totale belasting betaalbaar in eersgenoemde Staat staan as die verhouding waarin die betrokke inkomste tot die totale inkomste staan, te bowe nie.

(b) Waar 'n dividend deur 'n maatskappy wat 'n inwoner van 'n Kontrakterende Staat is, uitgekeer word aan 'n inwoner van die ander Kontrakterende Staat wat, regstreeks of onregstreeks, nie meer as 5 persent van die aandelekapitaal van die uitkeermaatskappy besit nie, neem die aftrekking in subparagraaf (a) die belasting in ag wat deur daardie maatskappy betaal word op die winste waaruit die dividend betaal word.

2. Vir doeleindes van subparagrafe (a) en (b) van paragraaf 1 van hierdie Artikel word die uitdrukking "belasting betaal in daardie ander Kontrakterende Staat" geag in te sluit die bedrag aan belasting wat betaal sou gewees het indien die belasting nie vrygestel of verminder was nie ooreenkomstig wette wat opgestel is om ekonomiese ontwikkeling in daardie ander Kontrakterende Staat te bevorder.

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

Artikel 23***Nie-diskriminasie***

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

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

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

4. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, paragraph 6 of Article 12 or paragraph 6 of Article 12A apply, interest, royalties, technical fees and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

5. In this Article the term "taxation" means taxes mentioned in Article 2.

Article 24

Mutual Agreement Procedure

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

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

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

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

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

4. Behalwe waar die bepalinge van paragraaf 1 van Artikel 9, paragraaf 7 van Artikel 11, paragraaf 6 van Artikel 12 of paragraaf 6 van Artikel 12A van toepassing is, is rente, tantièmes, tegniese gelde en ander uitbetalings betaal deur 'n onderneming van 'n Kontrakterende Staat aan 'n inwoner van die ander Kontrakterende Staat, vir doeleindes van die vasstelling van die belasbare winste van sodanige onderneming, onder dieselfde omstandighede aftrekbaar asof dit aan 'n inwoner van eersgenoemde Staat betaal was.

5. In hierdie Artikel beteken die uitdrukking "belasting", belastings gemeld in Artikel 2.

Artikel 24

Prosedure vir Onderlinge Ooreenkoms

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

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

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

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

Article 25***Exchange of Information***

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

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

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

Article 26***Members of Diplomatic Missions and Consular Posts***

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

Article 27***Limitation of Benefits***

The provisions of this Convention in respect of taxation on income shall not apply to a person (other than an individual) who has become a resident of a Contracting State in order primarily to enjoy the benefits of this Convention. In determining cases which are considered to fall within the provisions of this Article, the competent authorities of the Contracting States shall consult each other in order to reach mutual agreement regarding the exclusion of any person from the benefits of the Convention.

Artikel 25***Uitruil van Inligting***

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

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

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

Artikel 26***Lede van Diplomatieke Missies en Konsulêre Poste***

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

Artikel 27***Beperking van Voordele***

Die bepalinge van hierdie Konvensie ten opsigte van belasting op inkomste is nie van toepassing op 'n persoon (behalwe 'n individu) wat 'n inwoner van 'n Kontrakterende Staat geword het hoofsaaklik om die voordele van die Konvensie te geniet nie. By die vasstelling van watter gevalle beskou word as binne die bepalinge van hierdie Artikel te val, sal die bevoegde owerhede van die Kontrakterende State mekaar raadpleeg ten einde tot onderlinge ooreenkoms te geraak met betrekking tot die uitsluiting van enige persoon uit die voordele van die Konvensie.

Article 28***Entry into Force***

1. Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Convention. The Convention shall enter into force on the date of receipt of the later of these notifications.
2. The provisions of the Convention shall apply:
 - (a) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of January next following the date upon which the Convention enters into force; and
 - (b) with regard to other taxes, in respect of taxable years beginning on or after the first day of January next following the date upon which the Convention enters into force.

Article 29***Termination***

1. This Convention shall remain in force indefinitely but either of the Contracting States may terminate the Convention through the diplomatic channel, by giving to the other Contracting State written notice of termination not later than 30 June of any calendar year starting five years after the year in which the Convention entered into force.
2. In such event the Convention shall cease to apply:
 - (a) with regard to taxes withheld at source, in respect of amounts paid or credited after the end of the calendar year in which such notice is given; and
 - (b) with regard to other taxes, in respect of taxable years beginning after the end of the calendar year in which such notice is given.

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

DONE at Pretoria in duplicate, this 2nd day of February 1999, in the English, French and Arabic languages, the English and Arabic texts being equally authentic.

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

**FOR THE GOVERNMENT OF THE
REPUBLIC OF TUNISIA**

Artikel 28***Inwerkingtreding***

1. Elk van die Kontrakterende State stel die ander in kennis van die afhandeling van die prosedures wat ingevolge sy reg vereis word om hierdie Konvensie in werking te stel. Die Konvensie tree in werking op die datum van ontvangs van die laaste van hierdie kennisgewings.
2. Die bepalings van die Konvensie is van toepassing:
 - (a) met betrekking tot belastings wat by die bron teruggehou word, ten opsigte van bedrae betaal of gekrediteer op of na die eerste dag van Januarie eersvolgende op die datum waarop die Konvensie in werking tree; en
 - (b) met betrekking tot ander belastings, ten opsigte van belasbare jare wat begin op of na die eerste dag van Januarie eersvolgende op die datum waarop die Konvensie in werking tree.

Artikel 29***Opsegging***

1. Hierdie Konvensie bly vir 'n onbepaalde tyd van krag, maar enigeen van die Kontrakterende State kan die Konvensie langs die diplomatieke kanaal opsê deur aan die ander Kontrakterende Staat skriftelik kennis van opsegging te gee nie later nie as 30 Junie van enige kalenderjaar wat begin vyf jaar na die jaar waarin die Konvensie in werking getree het.
2. In sodanige geval is die Konvensie nie meer van krag nie:
 - a) met betrekking tot belastings wat by die bron teruggehou word, ten opsigte van bedrae betaal of gekrediteer na die einde van die kalenderjaar waarin sodanige kennis gegee is; en
 - b) met betrekking tot ander belastings, ten opsigte van belasbare jare wat begin na die einde van die kalenderjaar waarin sodanige kennis gegee is.

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

GEDOEN in duplikaat, te Pretoria, op hede die 2de dag van Februarie 1999, in die Engelse, Franse en Arabiese tale, waarvan die Engelse en Arabiese tekste ewe outentiek is.

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

**NAMENS DIE REGERING VAN DIE
REPUBLIEK TUNISIË**

PROTOCOL

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

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

With reference to Article 8, it is understood that profits from the operation of ships or aircraft in international traffic shall include:

- (a) profits derived from the rental on a bare boat basis of ships or aircraft used in international traffic if such profits are incidental to the profits to which the provisions of paragraph 1 of that Article apply; and
- (b) profits derived from the operation of ships or aircraft between places in a Contracting State in the course of a voyage or flight in international traffic.

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

DONE at Pretoria in duplicate, this 2nd day of February 1999, in the English, French and Arabic languages, the English and Arabic texts being equally authentic.

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

**FOR THE GOVERNMENT OF THE
REPUBLIC OF TUNISIA**

PROTOKOL

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

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

Met betrekking tot Artikel 8, word daar verstaan dat winste uit die bedryf van skepe of vliegtuie in internasionale verkeer sal insluit:

- (a) winste verkry uit die verhuring op 'n "sonder bemanning"-basis van skepe of vliegtuie gebruik in internasionale verkeer indien sodanige winste bykomstig is by die winste waarop die bepalinge van paragraaf 1 van daardie Artikel van toepassing is; en
- (b) winste verkry uit die bedryf van skepe of vliegtuie tussen plekke in 'n Kontrakterende Staat in die loop van 'n skeepvaart of vlug in internasionale verkeer.

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

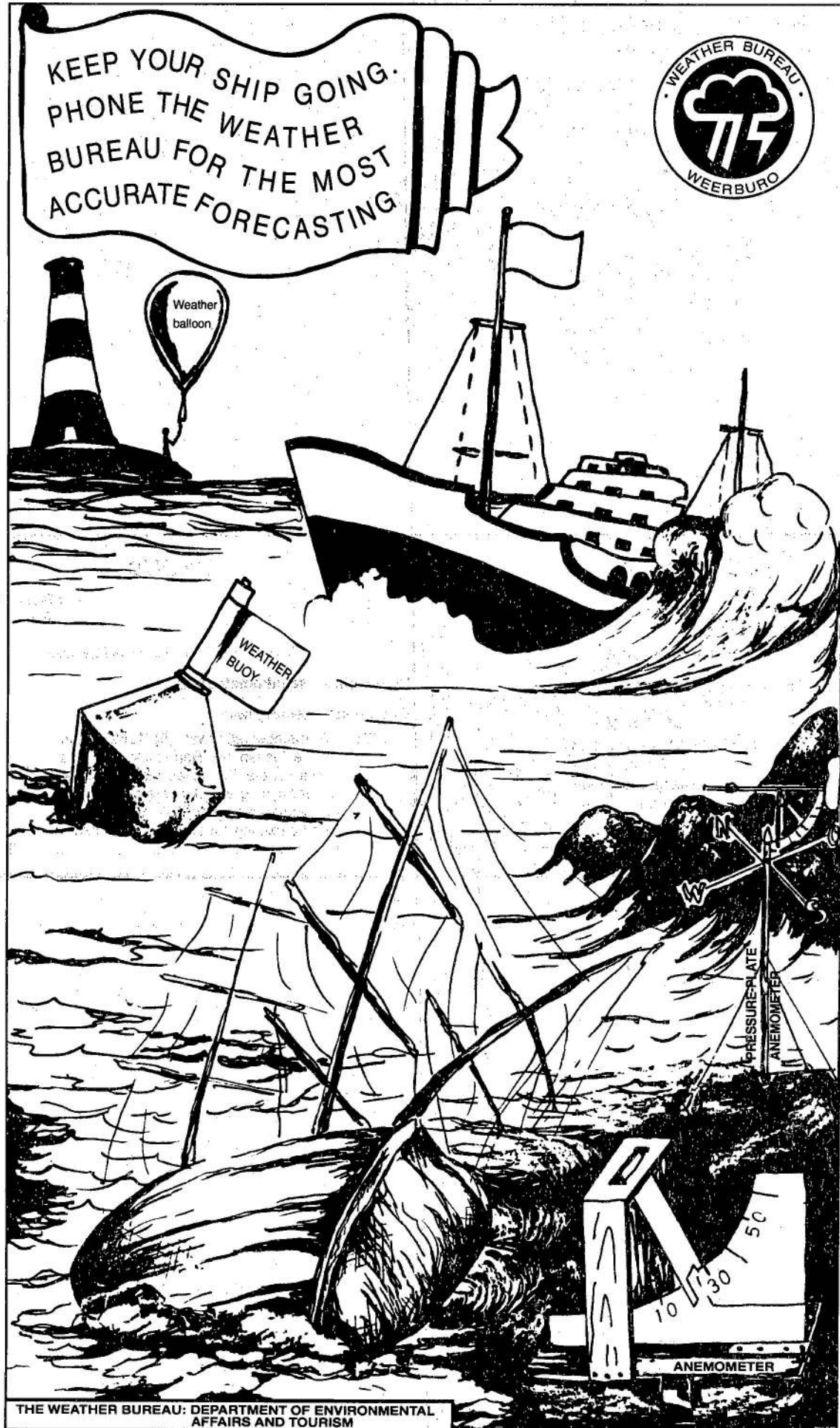
GEDOEN, in tweevoud, te Pretoria, op hede die 2 de dag van Februarie, 1999, in die Engelse, Franse en Arabiese tale, waarvan die Engelse en Arabiese tekste ewe outentiek is.

**NAMENS DIE REGERING VAN DIE
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**NAMENS DIE REGERING VAN DIE
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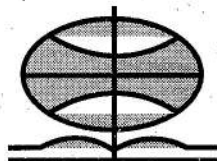
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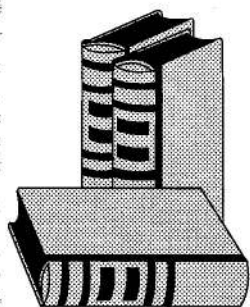
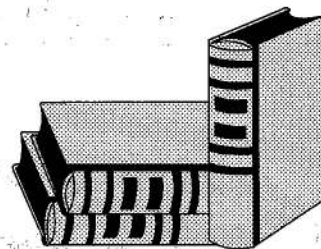
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