



<p style="text-align: center;"><b>Article 2</b></p> <p style="text-align: center;"><b>Taxes Covered</b></p>	<p style="text-align: center;">Article 2</p> <p style="text-align: center;">Taxes Covered</p>	<p style="text-align: center;"><b>Article 2</b></p> <p style="text-align: center;"><b>Taxes Covered</b></p>
<p>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.</p> <p>2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, 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.</p> <p>3. The existing taxes to which the Convention shall apply are in particular:</p> <p style="margin-left: 20px;">a) (in State A): .....</p> <p style="margin-left: 20px;">b) (in State B): .....</p>	<p>1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions, irrespective of the manner in which they are levied.</p> <p>2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property.</p> <p>3. The existing taxes to which the Agreement shall apply are:</p> <p style="margin-left: 20px;">(a) in .....</p> <p style="margin-left: 40px;">(i) .....</p> <p style="margin-left: 40px;">(ii) .....</p> <p style="margin-left: 40px;">(iii) .....; and</p> <p style="margin-left: 40px;">(iv) .....</p> <p style="margin-left: 40px;">(hereinafter referred to as “..... tax”); and</p> <p style="margin-left: 20px;">(b) in South Africa:</p> <p style="margin-left: 40px;">(i) the normal tax;</p> <p style="margin-left: 40px;">(ii) the secondary tax on companies; and</p> <p style="margin-left: 40px;">(iii) the withholding tax on royalties;</p> <p style="margin-left: 20px;">(hereinafter referred to as “South</p>	<p>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.</p> <p>2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.</p> <p>3. The existing taxes to which the Convention shall apply are in particular:</p> <p style="margin-left: 20px;">a) in Spain:</p> <p style="margin-left: 40px;">i) the income tax on individuals,</p> <p style="margin-left: 40px;">ii) the corporation tax,</p> <p style="margin-left: 40px;">iii) the income tax on non-residents,</p> <p style="margin-left: 40px;">iv) the capital tax, and</p> <p style="margin-left: 40px;">v) the local taxes on income and on capital;</p> <p style="margin-left: 40px;">(hereinafter referred to as “Spanish tax”); and</p> <p style="margin-left: 20px;">a) in South Africa:</p> <p style="margin-left: 40px;">i) the normal tax;</p> <p style="margin-left: 40px;">ii) the secondary tax on companies; and</p> <p style="margin-left: 40px;">iii) the withholding tax on royalties;</p> <p style="margin-left: 20px;">(hereinafter referred to as</p>

<p>4. The Convention shall apply also to any identical or substantially similar taxes that 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 that have been made in their taxation laws.</p> <p style="text-align: center;"><b>CHAPTER II</b></p> <p style="text-align: center;"><b>DEFINITIONS</b></p> <p style="text-align: center;"><b>Article 3</b></p> <p style="text-align: center;"><b>General Definitions</b></p> <p>1. For the purposes of this Convention, unless the context otherwise requires:</p> <p>a) the term “person” includes an individual, a company and any other body of persons;</p> <p>b) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;</p>	<p style="text-align: center;">African tax”).</p> <p>4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their taxation laws.</p> <p style="text-align: center;"><b>Article 3</b></p> <p style="text-align: center;"><b>General Definitions</b></p> <p>1. For the purposes of this Agreement, unless the context otherwise requires:</p> <p>(a) the term “.....” means .....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....; and</p> <p>(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</p>	<p style="text-align: center;">“South African tax”); and</p> <p>4. The Convention shall apply also to any identical or substantially similar taxes that 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 that have been made in their respective taxation laws.</p> <p style="text-align: center;"><b>Article 3</b></p> <p style="text-align: center;"><b>General Definitions</b></p> <p>1. For the purposes of this Convention, unless the context otherwise requires:</p> <p>a) the term “Spain” means the Spanish State, and when used in a geographical sense, means the territory of the Spanish State including any area outside the territorial sea upon which, in accordance with international law and on application of its domestic legislation, the Spanish State exercises or may exercise jurisdiction or sovereign rights with respect to the seabed, its subsoil and superjacent waters, and their natural resources;</p> <p>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</p>
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<p>c) the term “enterprise” applies to the carrying on of any business;</p> <p>d) 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;</p> <p>e) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise that 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;</p> <p>f) the term “competent authority” means:</p> <p>(i) (in State A): .....</p> <p>(ii) (in State B): .....</p> <p>g) the term “national”, in relation to a Contracting State, means:</p>	<p>has been or may hereafter be designated, under the laws of South Africa and in accordance with international law, as an area within which South Africa may exercise sovereign rights or jurisdiction;</p> <p>(c) the terms “a Contracting State” and “the other Contracting State” mean ..... or South Africa, as the context requires;</p> <p>(d) the term “business” includes the performance of professional services and of other activities of an independent character;</p> <p>(e) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;</p> <p>(f) the term “competent authority” means:</p> <p>(i) in ....., ..... or an authorised representative of the .....; and</p> <p>(ii) in South Africa, the Commissioner for the South African Revenue Service or an authorised representative of the Commissioner;</p> <p>(g) the term “enterprise” applies to the carrying on of any business;</p>	<p>has been or may hereafter be designated, under the laws of South Africa and in accordance with international law, as an area within which South Africa may exercise sovereign rights or jurisdiction;</p> <p>c) the terms “a Contracting State” and “the other Contracting State” mean Spain or South Africa, as the context requires;</p> <p>d) the term “business” includes the performance of professional services and of other activities of an independent character;</p> <p>e) the term “person” includes an individual, a company and any other body of persons that is treated as an entity for tax purposes;</p> <p>f) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;</p> <p>g) the term “enterprise” applies to the carrying on of any business;</p>
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<p>(i) any individual possessing the nationality or citizenship of that Contracting State; and</p> <p>(ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State;</p> <p>h) the term “business” includes the performance of professional services and of other activities of an independent character.</p> <p>2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it</p>	<p>(h) the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;</p> <p>(i) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;</p> <p>(j) the term “national”, in relation to a Contracting State, means:</p> <p>(i) any individual possessing the nationality or citizenship of that Contracting State; and</p> <p>(ii) any legal person or association deriving its status as such from the laws in force in that Contracting State; and</p> <p>(k) the term “person” includes an individual, a company and any other body of persons that is treated as an entity for tax purposes.</p> <p>2. As regards the application of the provisions of the Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have</p>	<p>h) the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;</p> <p>i) the term “national” means:</p> <p>i) any individual possessing the nationality of a Contracting State;</p> <p>ii) any legal person or association deriving its status as such from the laws in force in a Contracting State;</p> <p>j) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise that 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;</p> <p>k) the term “competent authority” means:</p> <p>i) in Spain, the Minister of Finance or an authorised representative of this Ministry;</p> <p>ii) in South Africa, the Commissioner for the South African Revenue Service or an authorised representative.</p> <p>2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it</p>
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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 any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.
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

the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

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1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of that person's domicile, residence, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources therein.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then that individual's status shall be determined as follows:
  - (a) the individual shall be deemed to be a resident solely of the State in which a permanent home is available to the individual; if a permanent home is available to the individual in both States, the individual shall be deemed to be a resident solely of the State with which the individual's personal and economic relations are closer (centre of vital interests);
  - (b) if sole residence cannot be determined under the provisions of subparagraph (a), or if the individual has not a permanent home available in either

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 any person who, under the laws of that State, is liable to tax therein by reason of that person's domicile, residence, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then that individual's status shall be determined as follows:
  - a) the individual shall be deemed to be a resident solely of the State in which a permanent home is available to the individual; if a permanent home is available to the individual in both States, the individual shall be deemed to be a resident solely of the State with which the individual's personal and economic relations are closer (centre of vital interests);
  - b) if sole residence cannot be determined under the provisions of subparagraph a), the individual shall be deemed to be a resident solely of the

<p>shall be deemed to be a resident only of the State in which he has an habitual abode;</p> <p>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;</p> <p>d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.</p> <p>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.</p>	<p>State, the individual shall be deemed to be a resident solely of the State in which the individual has an habitual abode;</p> <p>(c) if the individual has an habitual abode in both States or in neither of them, the individual shall be deemed to be a resident solely of the State of which the individual is a national;</p> <p>(d) if the individual is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.</p> <p>3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident solely of the State in which its place of effective management is situated.</p>	<p>State in which the individual has an habitual abode;</p> <p>c) if the individual has an habitual abode in both States or in neither of them, the individual shall be deemed to be a resident solely of the State of which the individual is a national;</p> <p>d) if the individual is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.</p> <p>3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident solely of the State in which its place of effective management is situated.</p>
<p style="text-align: center;"><b>Article 5</b></p> <p style="text-align: center;"><b>Permanent Establishment</b></p> <p>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.</p> <p>2. The term “permanent establishment” includes especially:</p> <p>a) a place of management;</p> <p>b) a branch;</p> <p>c) an office;</p> <p>d) a factory;</p> <p>e) a workshop, and</p> <p>f) a mine, an oil or gas well, a quarry or any other place of extraction of natural</p>	<p style="text-align: center;"><b>Article 5</b></p> <p style="text-align: center;"><b>Permanent Establishment</b></p> <p>1. For the purposes of this Agreement, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.</p> <p>2. The term “permanent establishment” includes especially:</p> <p>(a) a place of management;</p> <p>(b) a branch;</p> <p>(c) an office;</p> <p>(d) a factory;</p> <p>(e) a workshop, and</p> <p>(f) a mine, an oil or gas well, a quarry or any other place of extraction or</p>	<p style="text-align: center;"><b>Article 5</b></p> <p style="text-align: center;"><b>Permanent Establishment</b></p> <p>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.</p> <p>2. The term “permanent establishment” includes especially:</p> <p>a) a place of management;</p> <p>b) a branch;</p> <p>c) an office;</p> <p>d) a factory;</p> <p>e) a workshop; and</p> <p>f) a mine, an oil or gas well, a quarry or any other place of extraction of natural</p>

<p style="text-align: center;">resources.</p> <p>3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.</p> <p>4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:</p> <p style="padding-left: 20px;">a) the use of facilities solely for the purpose of storage, display or delivery</p>	<p style="text-align: center;">exploitation of natural resources.</p> <p>3. The term “permanent establishment” likewise encompasses:</p> <p style="padding-left: 20px;">(a) a building site, a construction, assembly or installation project or any supervisory activity in connection with such site or project, but only where such site, project or activity continues for a period of more than ..... months;</p> <p style="padding-left: 20px;">(b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by an enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the Contracting State for a period or periods exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned;</p> <p style="padding-left: 20px;">(c) the performance of professional services or other activities of an independent character by an individual, but only where those services or activities continue within a Contracting State for a period or periods exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned.</p> <p>4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:</p> <p style="padding-left: 20px;">(a) the use of facilities solely for the purpose of storage, display or delivery</p>	<p style="text-align: center;">resources.</p> <p>3. A building site, a construction, assembly or installation project or any supervisory activity in connection with such site or project constitutes a permanent establishment only where such site, project or activity continues for a period of more than twelve months.</p> <p>4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:</p> <p style="padding-left: 20px;">a) the use of facilities solely for the purpose of storage, display or delivery</p>
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<p>of goods or merchandise belonging to the enterprise;</p> <p>b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;</p> <p>c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;</p> <p>d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;</p> <p>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;</p> <p>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.</p> <p>5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the</p>	<p>of goods or merchandise belonging to the enterprise;</p> <p>(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;</p> <p>(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;</p> <p>(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;</p> <p>(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</p> <p>(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.</p> <p>5. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 6 applies – is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the</p>	<p>of goods or merchandise belonging to the enterprise;</p> <p>b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;</p> <p>c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;</p> <p>d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;</p> <p>(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;</p> <p>(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.</p> <p>5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those</p>
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<p>activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.</p> <p>6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.</p> <p>7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.</p>	<p>activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.</p> <p>6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.</p> <p>7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.</p>	<p>mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.</p> <p>6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.</p> <p>7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.</p>
<p style="text-align: center;"><b>CHAPTER III</b></p> <p style="text-align: center;"><b>TAXATION OF INCOME</b></p> <p style="text-align: center;"><b>Article 6</b></p> <p style="text-align: center;"><b>Income from Immovable Property</b></p> <p>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.</p> <p>2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in</p>	<p style="text-align: center;"><b>Article 6</b></p> <p style="text-align: center;"><b>Income from Immovable Property</b></p> <p>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.</p> <p>2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in</p>	<p style="text-align: center;"><b>Article 6</b></p> <p style="text-align: center;"><b>Income from Immovable Property</b></p> <p>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.</p> <p>2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in</p>

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.

**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.

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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. Where the ownership of shares or other corporate rights in a company directly or indirectly entitles the owner of such shares or corporate rights to the enjoyment of immovable property held by the company the income from the direct use, letting or use in any other form of such right to the enjoyment may be taxed in the Contracting State in which the immovable property is situated.
5. The provisions of paragraphs 1, 3 and 4 also apply to the income from immovable property of an enterprise.

**Article 7**

**Business Profits**

1. The profits of an enterprise of a Contracting State shall be taxable only in that 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.

<p>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.</p> <p>3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.</p> <p>4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.</p> <p>5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.</p> <p>6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent</p>	<p>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.</p> <p>3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.</p> <p>4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.</p> <p>5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.</p> <p>6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent</p>	<p>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.</p> <p>3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere.</p> <p>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.</p> <p>5. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent</p>
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<p>establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.</p> <p>7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.</p>	<p>establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.</p> <p>7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.</p>	<p>establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.</p> <p>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.</p>
<p style="text-align: center;"><b>Article 8</b></p> <p style="text-align: center;"><b>Shipping, Inland Waterways Transport and Air Transport</b></p>	<p style="text-align: center;"><b>Article 8</b></p> <p style="text-align: center;"><b>Shipping and Air Transport</b></p>	<p style="text-align: center;"><b>Article 8</b></p> <p style="text-align: center;"><b>Shipping and Air Transport</b></p>
<p>1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.</p> <p>2. Profits from the operation of boats engaged in inland waterways transport shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.</p> <p>3. If the place of effective management of a shipping enterprise or of an inland waterways transport enterprise is aboard a ship or boat, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship or boat is a resident.</p> <p>4. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.</p>	<p>1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.</p> <p>2. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic shall include profits derived from the rental on a bare boat basis of ships or aircraft used in international traffic, if such profits are incidental to the profits to which the provisions of paragraph 1 apply.</p> <p>3. Profits of an enterprise of a Contracting State from the use or rental of containers (including trailers, barges and related equipment for the transport of containers) used for the transport in international traffic of goods or merchandise shall be taxable only in that State.</p> <p>4. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.</p>	<p>1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.</p> <p>2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.</p> <p>3. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.</p>

**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 shall 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

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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

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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

other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

**Article 10**

**Dividends**

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:
  - a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;
  - b) 15 per cent of the gross amount of the dividends in all other cases.

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

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

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares,

regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

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  - (a) ... per cent of the gross amount of the dividends if the beneficial owner is a company which holds at least 25 per cent of the capital of the company paying the dividends; or
  - (b) ... per cent of the gross amount of the dividends in all other cases.

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

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

3. The term "dividends" as used in this Article means income from shares or other rights participating in profits (not being debt-claims),

provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

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**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.
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  - a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;
  - b) 15 per cent of the gross amount of the dividends in all other cases.

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

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

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares,

<p>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.</p> <p>4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.</p> <p>5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.</p>	<p>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.</p> <p>4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.</p> <p>5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except in so far as such dividends are paid to a resident of that other State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment 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.</p>	<p>founders' shares or other rights participating in profits, not being debt-claims, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the Contracting State of which the company making the distribution is a resident.</p> <p>4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case, the provisions of Article 7 shall apply.</p> <p>5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.</p>
<p style="text-align: center;"><b>Article 11</b></p> <p style="text-align: center;"><b>Interest</b></p>	<p style="text-align: center;"><b>Article 11</b></p> <p style="text-align: center;"><b>Interest</b></p>	<p style="text-align: center;"><b>Article 11</b></p> <p style="text-align: center;"><b>Interest</b></p>
<p>1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.</p>	<p>1. Interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State,</p>	<p>1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.</p>



<p>2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.</p> <p>3. 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</p>	<p>provided such resident is the beneficial owner of the interest.</p> <p>2. The term "interest" as used in this Article means income from debt claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and</p>	<p>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 5 per cent of the gross amount of the interest.</p> <p>The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.</p> <p>3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if the recipient is the beneficial owner of the interest and</p> <ul style="list-style-type: none"> <li>a) the interest is beneficially owned by a Contracting State or a political subdivision or a local authority thereof; or</li> <li>b) the interest is paid in connection with the sale on credit of merchandise or equipment to an enterprise of a Contracting State; or</li> <li>c) the interest is paid on a long-term loan (7 or more years) granted by a bank or other credit institution, which is a resident of a Contracting State.</li> </ul> <p>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</p>
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<p>prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.</p> <p>4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.</p> <p>5. 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.</p> <p>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 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</p>	<p>prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.</p> <p>3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.</p> <p>4. 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 that person is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.</p> <p>5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting</p>	<p>prizes attaching to such securities, bonds or debentures, as well as all other income assimilated to income from money lent by the taxation laws of the State in which the income arises. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.</p> <p>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 and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.</p> <p>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 that person is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.</p> <p>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</p>
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<p>State, due regard being had to the other provisions of this Convention.</p> <p style="text-align: center;"><b>Article 12</b></p> <p style="text-align: center;"><b>Royalties</b></p> <p>1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.</p> <p>2. 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, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.</p> <p>3. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the</p>	<p>State, due regard being had to the other provisions of this Agreement.</p> <p style="text-align: center;"><b>Article 12</b></p> <p style="text-align: center;"><b>Royalties</b></p> <p>1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.</p> <p>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 beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed .... per cent of the gross amount of the royalties.</p> <p style="text-align: center;">The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.</p> <p>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.</p> <p>4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the</p>	<p>being had to the other provisions of this Convention.</p> <p style="text-align: center;"><b>Article 12</b></p> <p style="text-align: center;"><b>Royalties</b></p> <p>1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.</p> <p>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 beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.</p> <p style="text-align: center;">The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.</p> <p>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 or films, tapes, and other means of image or sound reproduction, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.</p> <p>4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the</p>
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<p>provisions of Article 7 shall apply.</p> <p>4. 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.</p>	<p>provisions of Article 7 shall apply.</p> <p>5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether that person is a resident of a Contracting State or not, has in a Contracting State a permanent establishment with which the right or property in respect of which the royalties are paid is effectively connected, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the State in which the permanent establishment is situated.</p> <p>6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.</p>	<p>provisions of Article 7 shall apply.</p> <p>5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether that person is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the obligation to pay the royalties was incurred, and those royalties are borne by the permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.</p> <p>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.</p>
<p style="text-align: center;"><b>Article 13</b></p> <p style="text-align: center;"><b>Capital Gains</b></p> <p>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.</p> <p>2. Gains from the alienation of movable property forming part of the business property of a</p>	<p style="text-align: center;"><b>Article 13</b></p> <p style="text-align: center;"><b>Capital Gains</b></p> <p>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.</p> <p>2. Gains from the alienation of movable property forming part of the business property of a</p>	<p style="text-align: center;"><b>Article 13</b></p> <p style="text-align: center;"><b>Capital Gains</b></p> <p>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.</p> <p>2. Gains from the alienation of movable property forming part of the business property of a</p>

<p>permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.</p> <p>3. Gains from the alienation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft or boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.</p> <p>4. Gains derived by a resident of a Contracting State from the alienation of shares deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.</p> <p>5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4, shall be taxable only in the Contracting State of which the alienator is a resident.</p>	<p>permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.</p> <p>3. Gains of an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.</p> <p>4. Gains derived by a resident of a Contracting State from the alienation of shares deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.</p> <p>5. Gains from the alienation of any property other than that referred to in the preceding paragraphs of this Article, shall be taxable only in the Contracting State of which the alienator is a resident.</p>	<p>permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.</p> <p>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.</p> <p>4. Gains from the alienation of shares or other participation rights in a company, the property of which consists, directly or indirectly, mainly of immovable property situated in a Contracting State, may be taxed in that State.</p> <p>5. Gains from the alienation of any property other than that referred to in the preceding paragraphs of this Article, shall be taxable only in the Contracting State of which the alienator is a resident.</p>
<p style="text-align: center;"><b>[Article 14</b></p> <p style="text-align: center;"><b>Independent Personal Services]</b></p> <p style="text-align: center;">Article Deleted</p> <p style="text-align: center;"><b>Article 15</b></p> <p style="text-align: center;"><b>Income from Employment</b></p> <p>1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a</p>	<p style="text-align: center;"><b>Article 14</b></p> <p style="text-align: center;"><b>Income from Employment</b></p> <p>1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a</p>	<p style="text-align: center;"><b>Article 14</b></p> <p style="text-align: center;"><b>Income from Employment</b></p> <p>1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a</p>

<p>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.</p> <p>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:</p> <p>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</p> <p>b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and</p> <p>c) the remuneration is not borne by a permanent establishment which the employer has in the other State.</p> <p>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, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.</p> <p style="text-align: center;"><b>Article 16</b></p> <p style="text-align: center;"><b>Directors' Fees</b></p> <p>Directors' fees and other similar payments derived by a</p>	<p>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.</p> <p>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:</p> <p>(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</p> <p>(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and</p> <p>(c) the remuneration is not borne by a permanent establishment which the employer has in the other State.</p> <p>3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that State.</p> <p style="text-align: center;"><b>Article 15</b></p> <p style="text-align: center;"><b>Directors' Fees</b></p> <p>Directors' fees and other similar payments derived by a</p>	<p>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.</p> <p>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:</p> <p>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</p> <p>b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and</p> <p>c) the remuneration is not borne by a permanent establishment which the employer has in the other State.</p> <p>3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.</p> <p style="text-align: center;"><b>Article 15</b></p> <p style="text-align: center;"><b>Directors' Fees</b></p> <p>Directors' fees and other similar payments derived by a</p>
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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**

#### **Artistes and Sportsmen**

1. Notwithstanding the provisions of Articles 7 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 sportsman, 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 sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

resident of a Contracting State in that person's capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

### **Article 16**

#### **Entertainers and Sportspersons**

1. Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from that person's personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in that person's capacity as such accrues not to the entertainer or sportsperson but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

resident of a Contracting State in that person's capacity as a member of the board of directors or another similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

### **Article 16**

#### **Entertainers and Sportspersons**

1. Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from that person's personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in that person's capacity as such accrues not to the entertainer or sportsperson but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.
3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from activities referred to in paragraph 1 performed under a cultural agreement or arrangement between the Contracting States shall be exempt from tax in the Contracting State in which the activities are exercised if the visit to that State is wholly or mainly supported by public funds of the other Contracting State or of a political subdivision or local authority thereof.

<p style="text-align: center;"><b>Article 18</b></p> <p style="text-align: center;"><b>Pensions</b></p> <p>Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.</p>	<p style="text-align: center;"><b>Article 17</b></p> <p style="text-align: center;"><b>Pensions and Annuities</b></p> <ol style="list-style-type: none"> <li>1. Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration, and annuities, arising in a Contracting State and paid to a resident of the other Contracting State, may be taxed in the first-mentioned State.</li> <li>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.</li> </ol>	<p style="text-align: center;"><b>Article 17</b></p> <p style="text-align: center;"><b>Pensions</b></p> <p>Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.</p>
<p style="text-align: center;"><b>Article 19</b></p> <p style="text-align: center;"><b>Government Service</b></p> <ol style="list-style-type: none"> <li>1. <ol style="list-style-type: none"> <li>a) Salaries, wages and other 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.</li> <li>b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who: <ol style="list-style-type: none"> <li>(i) is a national of that State; or</li> <li>(ii) did not become a resident of that State solely for the purpose of rendering the services.</li> </ol> </li> </ol> </li> </ol>	<p style="text-align: center;"><b>Article 18</b></p> <p style="text-align: center;"><b>Government Service</b></p> <ol style="list-style-type: none"> <li>1. <ol style="list-style-type: none"> <li>(a) Salaries, wages and other 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.</li> <li>(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who: <ol style="list-style-type: none"> <li>(i) is a national of that State; or</li> <li>(ii) did not become a resident of that State solely for the purpose of rendering the services.</li> </ol> </li> </ol> </li> </ol>	<p style="text-align: center;"><b>Article 18</b></p> <p style="text-align: center;"><b>Government Service</b></p> <ol style="list-style-type: none"> <li>1. <ol style="list-style-type: none"> <li>a) Salaries, wages and other 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.</li> <li>b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who: <ol style="list-style-type: none"> <li>i) is a national of that State; or</li> <li>ii) did not become a resident of that State solely for the purpose of rendering the services.</li> </ol> </li> </ol> </li> </ol>



<p>2. a) Notwithstanding the provisions of paragraph 1, a pension or other similar remuneration 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.</p> <p>b) However, such pension or other similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.</p> <p>3. The provisions of Articles 15, 16, 17, and 18 shall apply to salaries, wages, pensions, and other similar remuneration 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.</p> <p style="text-align: center;"><b>Article 20</b></p> <p style="text-align: center;"><b>Students</b></p> <p>Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.</p> <p style="text-align: center;"><b>Article 21</b></p> <p style="text-align: center;"><b>Other Income</b></p> <p>1. Items of income of a resident of a Contracting</p>	<p>2. (a) Notwithstanding the provisions of paragraph 1, a pension or other similar remuneration 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.</p> <p>(b) However, such pension or other similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.</p> <p>3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages, pensions, and other similar remuneration 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.</p> <p style="text-align: center;"><b>Article 19</b></p> <p style="text-align: center;"><b>Students</b></p> <p>A student who is present in a Contracting State solely for the purpose of the student's 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 the student's maintenance, education or training.</p> <p style="text-align: center;"><b>Article 20</b></p> <p style="text-align: center;"><b>Other Income</b></p> <p>1. Items of income of a resident of a Contracting</p>	<p>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.</p> <p>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.</p> <p>3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.</p> <p style="text-align: center;"><b>Article 19</b></p> <p style="text-align: center;"><b>Students</b></p> <p>Students or business apprentices who are present in a Contracting State solely for the purpose of their education or training and who are, or immediately before being so present were residents of the other Contracting State, shall be exempt from tax in the first-mentioned State on payments received from outside that first-mentioned State for the purpose of their maintenance, education or training.</p> <p style="text-align: center;"><b>Article 20</b></p> <p style="text-align: center;"><b>Other Income</b></p> <p>1. Items of income of a resident of a Contracting</p>
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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 and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

#### **CHAPTER IV**

#### **TAXATION OF CAPITAL**

#### **Article 22**

#### **Capital**

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.

State, wherever arising, not dealt with in the foregoing Articles of this Agreement 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 and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of the Agreement and arising in the other Contracting State may also be taxed in that other State.

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

#### **Article 21**

#### **Capital**

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.
2. Capital constituted by shares, rights or comparable interest in a company, in any other legal person or in a partnership, the assets of which consist principally of, or of rights in,

2. Capital represented by 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 may be taxed in that other State.
3. Capital represented by ships and aircraft operated in international traffic and by boats engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

**CHAPTER V**

**METHODS FOR ELIMINATION OF DOUBLE TAXATION**

**Article 23 A**

**Exemption Method**

*The exemption method is not applied by either Spain or South Africa.*

3. immovable property situated in a Contracting State or of shares in a company the assets of which consist principally of, or of rights in, such immovable property situated in a Contracting State may be taxed in the Contracting State in which the immovable property is situated.
3. Capital represented by 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 may be taxed in that other State.
4. Capital represented by ships and aircraft operated in international traffic and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
5. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

**Article 23 B**

**Credit Method**

1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow:

- a) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other State;
- b) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in that other State.

Such deduction in either case shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in that other State.

2. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

**Article 21**

**Elimination of Double Taxation**

Double taxation shall be eliminated as follows:

- (a) in ....., .....
- .....
- .....
- .....
- .....
- .....
- .....;

**Article 22**

**Methods for Elimination of Double Taxation**

1. In Spain, double taxation shall be avoided, in accordance with the relevant provisions of the law of Spain, as follows:

- a) Where a resident of Spain derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in South Africa, Spain shall allow as a deduction from the tax on the income or on the capital of that resident, an amount equal to the tax effectively paid in South Africa.

Such deduction shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or to the capital which may be taxed in South Africa.

- b) In the case of a dividend paid by a company which is a resident of South Africa to a company which is a resident of Spain and which holds at least 25 per cent of the capital of the company paying the dividend, or the percentage provided for by the Spanish internal legislation in case it were lower, in the computation of the credit there shall be taken into account, in addition to the tax creditable under subparagraph a) of this paragraph, that part of the tax effectively paid by the first-mentioned company on the profits out of which the dividend is paid, which relate to such dividend, provided that such amount of tax is included, for this purpose, in the taxable base of the

	<p>(b) in South Africa, subject to the provisions of the law of South Africa regarding the deduction from tax payable in South Africa of tax payable in any country other than South Africa (which shall not affect the general principle hereof), ..... tax paid by residents of South Africa in respect of income taxable in ....., in accordance with the provisions of this Agreement, shall be deducted from the taxes due according to South African fiscal law. Such deduction shall not, however, exceed an amount which bears to the total South African tax payable the same ratio as the income concerned bears to the total income.</p>	<p>receiving company.</p> <p>Such deduction, together with the deduction allowable in respect of the dividend under subparagraph a) of this paragraph, shall not exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income subject to tax in South Africa.</p> <p>For the application of this subparagraph it shall be required that the participation in the company paying the dividends is held on a continuous basis at least during the taxable year prior to the day of payment of the dividend.</p> <p>c) Where in accordance with any provision of this Convention income derived or capital owned by a resident of Spain is exempt from tax in Spain, Spain may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.</p> <p>2. In South Africa, double taxation shall be avoided in the following manner:</p> <p>subject to the provisions of the law of South Africa regarding the deduction from tax payable in South Africa of tax payable in any country other than South Africa, Spanish tax paid by residents of South Africa in respect of income taxable in Spain, in accordance with the provisions of this Convention, shall be deducted from the taxes due according to South African fiscal law. Such deduction shall not, however, exceed an amount which bears to the total South African tax payable the same ratio as the income concerned bears to the</p>
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**CHAPTER VI**  
**SPECIAL PROVISIONS**

**Article 24**

**Non-discrimination**

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
2. Stateless persons who are residents of a Contracting State shall not be subjected in either 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 the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected.
3. 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

**Article 22**

**Non-discrimination**

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. 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

total income.

**Article 23**

**Non-discrimination**

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State, in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal

<p>allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.</p> <p>4. Except where the provisions of paragraph 1 of Article 9, paragraph 6 of Article 11, or paragraph 4 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.</p> <p>5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.</p> <p>6. The provisions of this Article shall,</p>	<p>allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.</p> <p>3. Except where the provisions of paragraph 1 of Article 9, paragraph 5 of Article 11 or paragraph 6 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.</p> <p>4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.</p> <p>5. Nothing contained in this Article shall prevent South Africa from imposing on the profits attributable to a permanent establishment in South Africa of a company, which is a resident of ....., a tax at a rate which does not exceed the rate of normal tax on companies by more than five percentage points.</p> <p>6. The provisions of this Article shall,</p>	<p>allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.</p> <p>3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.</p> <p>4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.</p> <p>5. The provisions of this Article shall,</p>
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notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

### Article 25

#### Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of 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 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.
3. 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.

notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

### Article 23

#### Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for that person in taxation not in accordance with the provisions of this Agreement, that person may, irrespective of the remedies provided by the domestic law of those States, present a case to the competent authority of the Contracting State of which the person is a resident or, if the case comes under paragraph 1 of Article 22, to that of the Contracting State of which the person is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

### 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 that person in taxation not in accordance with the provisions of this Convention, that person may, irrespective of the remedies provided by the domestic law of those States, present a case to the competent authority of the Contracting State of which the person is a resident or, if the case comes under paragraph 1 of Article 23, to that of the Contracting State of which the person is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.
3. 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.



<p>4. The competent authorities of the Contracting States may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.</p>	<p>4. The competent authorities of the Contracting States may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.</p>	<p>4. The competent authorities of the Contracting States may communicate with each other directly, for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.</p>
<p style="text-align: center;"><b>Article 26</b></p> <p style="text-align: center;"><b>Exchange of Information</b></p>	<p style="text-align: center;"><b>Article 24</b></p> <p style="text-align: center;"><b>Exchange of Information</b></p>	<p style="text-align: center;"><b>Article 25</b></p> <p style="text-align: center;"><b>Exchange of Information</b></p>
<p>1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.</p>	<p>1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions in so far as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.</p>	<p>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 law concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes referred to in the first sentence. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.</p>
<p>2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained</p>	<p>2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained</p>	

<p>under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. 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.</p> <p>3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:</p> <p>a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;</p> <p>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;</p> <p>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 (<i>ordre public</i>).</p> <p>4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraphs of paragraph 3 but in no case</p>	<p>under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. 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.</p> <p>3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:</p> <p>(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;</p> <p>(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;</p> <p>(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 (<i>ordre public</i>).</p> <p>4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such</p>	<p>2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:</p> <p>a) to carry out administrative measures at variance with the laws or administrative practice of that or of the other Contracting State;</p> <p>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;</p> <p>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 (<i>ordre public</i>).</p>
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shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

### **Article 27**

#### **Assistance in the Collection of Taxes**

1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.
2. The term "revenue claim" as used in this Article means an amount owed in respect of taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Convention or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.
3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection

limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

### **Article 25**

#### **Assistance in the Collection of Taxes**

1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.
2. The term "revenue claim" as used in this Article means an amount owed in respect of taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Agreement or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.
3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection

<p>by the competent authority of the other Contracting State. That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State.</p> <p>4. When a revenue claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned State or is owed by a person who has a right to prevent its collection.</p> <p>5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Contracting State for purposes of paragraph 3 or 4 shall not, in that State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State.</p> <p>6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State.</p>	<p>by the competent authority of the other Contracting State. That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State.</p> <p>4. When a revenue claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned State or is owed by a person who has a right to prevent its collection.</p> <p>5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Contracting State for purposes of paragraph 3 or 4 shall not, in that State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State.</p> <p>6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State.</p>	
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<p>7. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be</p> <p>a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, or</p> <p>b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection</p> <p>the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the first-mentioned State shall either suspend or withdraw its request.</p> <p>8. In no case shall the provisions of this Article be construed so as to impose on a Contracting State the obligation:</p> <p>a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;</p> <p>b) to carry out measures which would be contrary to public policy (ordre public);</p> <p>c) to provide assistance if the other Contracting State has not pursued all</p>	<p>7. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be</p> <p>(a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, or</p> <p>(b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection</p> <p>the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the first-mentioned State shall either suspend or withdraw its request.</p> <p>8. In no case shall the provisions of this Article be construed so as to impose on a Contracting State the obligation:</p> <p>(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;</p> <p>(b) to carry out measures which would be contrary to public policy (ordre public);</p> <p>(c) to provide assistance if the other Contracting State has not pursued all</p>	
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reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice;

- d) to provide assistance in those cases where the administrative burden of that State is clearly disproportionate to the benefit to be derived by the other Contracting State.

**Article 28**

**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 29**

**Territorial Extension<sup>1</sup>**

*An Article on Territorial Extension which is found in the OECD Model Convention is omitted from the South African Model Agreement as well as from the Convention with Spain.*

**CHAPTER VII**

**FINAL PROVISIONS**

**Article 30**

**Entry into Force**

1. This Convention shall be ratified and the

reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice;

- (d) to provide assistance in those cases where the administrative burden of that State is clearly disproportionate to the benefit to be derived by the other Contracting State.

**Article 26**

**Members of Diplomatic Missions and Consular Posts**

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

**Article 27**

**Entry into Force**

1. Each of the Contracting States shall notify to

**Article 26**

**Members of Diplomatic Missions and Consular Posts**

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

**Article 27**

**Entry into Force**

1. The Governments of the Contracting States

<p>instruments of ratification shall be exchanged at ..... as soon as possible.</p> <p>2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect:</p> <p>a) (in State A): .....</p> <p>b) (in State B): .....</p> <p style="text-align: center;"><b>Article 31</b></p> <p style="text-align: center;"><b>Termination</b></p> <p>This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year ..... In such event, the Convention shall</p>	<p>the other in writing, through the diplomatic channel, of the completion of the procedures required by its law for the bringing into force of this Agreement. The Agreement shall enter into force on the date of receipt of the later of these notifications.</p> <p>2. The provisions of the Agreement shall apply:</p> <p>(a) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of January next following the date upon which the Agreement enters into force; and</p> <p>(b) with regard to other taxes, in respect of taxable years beginning on or after the first day of January next following the date upon which the Agreement enters into force.</p> <p style="text-align: center;"><b>Article 28</b></p> <p style="text-align: center;"><b>Termination</b></p> <p>1. This Agreement shall remain in force indefinitely but either of the Contracting States may terminate the Agreement, through the diplomatic channel, by giving to the other Contracting State written notice of termination not later than 30 June of any calendar year</p>	<p>shall notify each other that the internal procedures required by the law of each Contracting State for the entry into force of this Convention have been complied with. The Convention shall enter into force on the date of receipt of the later of these notifications.</p> <p>2. The provisions of the Convention shall have effect:</p> <p>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</p> <p>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.</p> <p>3. The Agreement between Spain and South Africa to prevent double taxation on income derived from the operation of ships or aircraft in international traffic on a mutual basis, concluded by exchange of notes on 16 October 1973, shall terminate upon the entry into force of this Convention and its provisions shall not have effect for any period for which this Convention shall have effect.</p> <p style="text-align: center;"><b>Article 28</b></p> <p style="text-align: center;"><b>Termination</b></p> <p>1. This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate this Convention, through the diplomatic channel, by giving written notice of termination at least six months before the end of any calendar year</p>
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<p>cease to have effect:</p> <p>a) (in State A): .....</p> <p>b) (in State B): .....</p>	<p>starting five years after the year in which the Agreement entered into force.</p> <p>2. In such event the Agreement shall cease to apply:</p> <p>(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</p> <p>(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.</p>	<p>after the period of five years from the date on which the Convention enters into force.</p> <p>2. In such event, the Convention shall cease to have effect:</p> <p>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</p> <p>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.</p> <p style="text-align: center;"><b>PROTOCOL</b></p> <p>At the moment of signing the Convention between the Kingdom of Spain and the Republic of South Africa for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, the undersigned have agreed upon the following provisions which shall be an integral part of the Convention.</p> <p>I. Ad Article 10, paragraph 3</p> <p>It is understood that the term "dividends" includes profits on the liquidation of a company.</p> <p>II. With reference to Articles 10, 11, 12 and 13, it is understood that:</p> <p>a) Notwithstanding the provisions of this Convention, a company resident in a Contracting State in which persons who are not residents of that State hold, directly or indirectly, a</p>
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participation of more than 50 per cent of the share capital, shall not be entitled to the reliefs or benefits provided for by the Convention in respect of dividends, interest, royalties and capital gains arising in the other Contracting State. This provision shall not apply where the said company is engaged in substantive business operations, other than the mere holding of shares or property, in the Contracting State of which it is a resident.

- b) A company which under the preceding subparagraph would not be entitled to the reliefs or benefits of the Convention in respect of the aforementioned items of income, may still be granted such benefits if the competent authorities of the Contracting States agree under Article 24 of the Convention that the establishment of the company and the conduct of its operations are founded on sound business reasons and thus do not have as a primary purpose the obtaining of such benefits.

III. Ad Article 23

It is understood that the provisions of Article 23 shall not prevent the application by a Contracting State of its domestic law concerning thin capitalisation.

It is also understood that, notwithstanding the provisions of Article 23, a Contracting State may impose on a permanent establishment in that Contracting State of a company which is a resident of the other Contracting State:

- a) in Spain, a tax on the repatriated

		<p>income in addition to the income tax imposed on the taxable income of the company provided that any complementary tax so imposed shall not exceed 5 per cent of the amount of the repatriated income; and</p> <p>b) in South Africa, a tax on the profits attributable to that permanent establishment at a rate which does not exceed the rate of normal tax on companies by more than five percentage points.</p>
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