

**Notification No. 7/1998 Coll. Ministry of Foreign Affairs, Treaty  
between the Czech Republic and South Africa for the avoidance of  
double taxation and prevention of fiscal evasion with respect to  
Taxes on Income**

(Valid from December 3, 1997)

**7/1998 Coll.  
COMMUNICATION**

**Ministry of Foreign Affairs**

Ministry of Foreign Affairs informs that on 11 November 1996 was signed in Prague Agreement between the Czech Republic and South Africa for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income.

The Treaty ratified by Parliament of the Czech Republic and President of the Republic ratified.

Contract by virtue of Article 27, paragraph 1 came into force on 3 December 1997.

Czech version of the Treaty shall be open simultaneously.

**AGREEMENT**

**between the Czech Republic and South Africa for the  
avoidance of  
Double Taxation and the Prevention of Fiscal Evasion  
with Respect to Taxes on Income**

Government of the Czech Republic and the South African Government, desiring to promote and strengthen economic relations between the two countries, Have agreed as follows:

**Article 1**

**The persons to whom this Agreement applies**

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

**Article 2**

**Taxes to which the Convention applies**

1) This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or its political subdivisions, irrespective of the way they are levied.

2) The income tax is considered that all taxes imposed on total income or on elements of income including taxes on gains from the alienation of movable or immovable property as well as taxes on capital appreciation.

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

a) in the Czech Republic:

(i) the tax on income of individuals;

(ii) the tax on corporate income tax, (hereinafter referred to as "Czech tax");

b) South Africa:

- (i) the normal tax;
- (ii) the tax stakeholders - residents, and
- (iii) the secondary corporation tax, (hereinafter referred to as "South African tax").

4) This Agreement shall also apply to taxes, the same or substantially similar kind, which are imposed after the signature of this Convention in addition to or instead of the existing taxes. The competent authorities of the Contracting States shall notify each significant changes which have been made in their respective taxation laws.

### **Article 3**

#### **General definitions**

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

- a) the term "Czech Republic" means the territory in which the applicable tax laws of the Czech Republic;
- b) the term "South Africa" means the Republic of South Africa and, when used in a geographical sense, includes the territorial waters as well as any area outside the territorial sea, including the continental shelf, which, in accordance with the laws of South Africa has been or could be described as an area on which South Africa may exercise sovereign rights or jurisdiction;
- c) the terms "a Contracting State" and "the other Contracting State" mean the Czech Republic or South Africa;
- d) the term "person" includes an individual, company and any other body of persons;
- e) the term "company" means any body corporate or any entity which is treated for tax purposes as a legal person;
- f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- g) the term "national" means:
  - (i) any individual possessing the nationality of a Contracting State;
  - (ii) any legal person, partnership or association constituted under the law in force in a Contracting State;
- h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise whose place of effective management in a Contracting State if such transportation is solely between places in the other Contracting State;
- i) the term "competent authority" means:
  - (i) in the Czech Republic, the Minister of Finance or his authorized representative;
  - (ii) in the case of South Africa Commissioner of Inland Revenue or his authorized representative.

2) Any term not otherwise defined shall have the application of the Convention by a Contracting State the meaning which it has under the law of that State concerning the taxes covered by this contract, unless the context otherwise requires.

### **Article 4**

#### **Resident**

1) For purposes of this Agreement, the term "resident of a Contracting State" means:

- a) in the case of the Czech Republic every person who, under the law of the Czech Republic are subject to tax therein by reason of his domicile, residence, place of management or any other similar criteria, but this term does not include a person who is liable to tax in the Czech

Republic only for reasons income from sources in the Czech Republic or capital situated therein, and

b) In the case of South Africa, any individual who is a regular resident in South Africa, and any other person who is in South Africa the place of effective management.

2) If an individual is under the provisions of paragraph 1, a resident of both Contracting States, then his status shall be determined as follows:

a) it is assumed that this person is a resident of the State in which he has a permanent home, if he has a permanent home in both countries, it is assumed that a resident of the State with which his personal and economic relations (center of vital interests );

b) if it can not be determined, the State in which he has his center of vital interests or if he has a permanent home in either State, it is assumed that a resident of the State in which an habitual abode;

c) if he has an habitual abode in both States or in neither of them expected to be a resident of the State of his nationality;

d) if he is a national of both States or of neither of them, the competent authorities of the States Parties to this question by mutual agreement

3) If a person other than an individual under the provisions of paragraph 1, a resident of both Contracting States, it is assumed that a resident of the State in which the place of effective management.

## **Article 5**

### **Permanent Establishment**

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

2) The term "permanent establishment" includes especially:

a) a place of management;

b) a branch;

c) an office;

d) a factory;

e) a workshop;

f) a mine, an oil or gas well, quarry or other place of extraction of natural resources.

3) The term "permanent establishment" likewise encompasses:

a) a building site or construction, assembly or installation project or supervisory activities connected therewith, but only lasts if such site, project or activity for a period exceeding 12 months;

b) the provision of services, including consultancy or managerial services, by an enterprise of a Contracting State through employees or other personnel engaged by the enterprise for such purposes, but only where activities of that nature continue in the other Contracting State for a period or periods exceeding in the aggregate six months in any twelve-month period.

4) Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall not include:

a) equipment that is used only for storage, display or delivery of the goods belonging to the enterprise;

b) the supply of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

c) the supply of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

- d) a permanent place of business solely for the purpose of purchasing goods or collecting information for the enterprise;
- e) the permanent place of business which is maintained for the enterprise solely for the purpose of advertising, information, scientific research or similar activities to the enterprise a preparatory or auxiliary character;
- f) a permanent place of business solely for any combination of activities mentioned in subparagraphs a) to e), provided that the overall activity of the fixed equipment resulting from this combination is of a preparatory or auxiliary character.

5) If, notwithstanding the provisions of paragraphs 1 and 2, a person - other than an independent agent to whom paragraph 6 applies - is acting in a Contracting State on behalf of an enterprise and has available and commonly used power of attorney to conclude contracts on behalf business, it is considered that this enterprise has a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise unless the activities of such person are limited to those mentioned in paragraph 4 which, if they were made permanent by equipment, would not the existence of a permanent establishment under the provisions of this paragraph.

6) shall not be considered that the enterprise has a permanent establishment in a Contracting State merely because in that State carries on business through a broker, general commission agent or other independent representative, if such persons are acting in the ordinary course of their activities.

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

## **Article 6**

### **Income from immovable property**

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

2) The term "immovable property" shall have the meaning it has under the law of the Contracting State in which the property concerned is located. The term shall in any case 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 for the working of, or consent 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 from the direct use, letting, or any other form of immovable property.

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

## **Article 7**

### **Business Profits**

1) 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, profits of the enterprise may be taxed in that other State but only to the extent they are attributable to that permanent establishment.

2) If an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment is situated therein shall, subject to the provisions of paragraph 3 of each Contracting State a permanent establishment the profits which would have been able to achieve if it were a separate company engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which the permanent establishment.

3) In determining the profits of a permanent establishment shall be permitted to deduct business expenses 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.

4) If in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of total profits of the enterprise to its various parts, the provisions of paragraph 2, that Contracting State from determining the profits to be taxed by the usual division. The method of apportionment, however, must be such that the result was in accordance with the principles set out in this article.

5) Permanent establishment nepřičtou any profits from the fact that the mere purchase of goods for the enterprise.

6), the profits to be attributed to the permanent establishment for purposes of the preceding paragraphs the same way every year unless there is sufficient reason to the contrary.

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

## **Article 8**

### **Shipping and Air Transport**

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

2) The term "profits from the operation of ships or aircraft in international traffic" includes for the purposes of this Article, profits derived from the rental of ships or aircraft on a time or voyage. It also includes profits from rental of ships or aircraft, which an enterprise operating ships or aircraft in international traffic if such rental are incidental to the activities described in paragraph 1

3) Profits of an enterprise of a Contracting State from the use, maintenance or rental of containers (including barges and related equipment for the transport of containers) used in international traffic shall be taxable only in that State.

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

## **Article 9**

### **Associated enterprises**

1) If

- 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;
- 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 if in these cases, the two enterprises in their commercial or financial relations conditions that have agreed or imposed which differ from those that have been made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but due to these conditions have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2) If a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which the enterprise of the other Contracting State taxed in that other State and the profits so included are profits which are the first-mentioned State is considered to be the profits that would have accrued to the enterprise of the first-mentioned State if the conditions made between the enterprises had been those which would have been made between independent enterprises, then that other State may adjust appropriately the amount of tax imposed on such profits in that State. In determining such adjustment, due regard shall be to the other provisions of this contract, and if necessary, the competent authorities of the Contracting States to this end consult each other.

## **Article 10**

### **Dividends**

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

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

- a) 5 percent of the gross amount of dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 percent of the assets of the company paying the dividends;
- b) 15 percent 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 profits from which dividends are paid.

3) The term "dividends" as used in this Article means income from shares or other rights (except for 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 in which the company making the distribution is a resident.

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

5) Where a company which is resident of a Contracting State derives profits or income from the other Contracting State, that other State may tax 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 actually belongs to the permanent establishment or fixed base situated in that other State, nor subject the company's undistributed profits tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

## **Article 11**

### **Interest**

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

2) The term "interest" as used in this Article means income from debt-claims of every kind of secured and unsecured by mortgage or having or no right to participate in the debtor and, in particular, income from government securities and income from bonds or debentures, including premiums and rewards associated I price these securities, bonds or debentures. Penalty for late payment shall not be regarded as interest for the purposes of this article.

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 in the other Contracting State in which the interest arises, or business through a permanent establishment situated therein, or independent personal services from a fixed base situated therein and the debt-claim from which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case.

4) It is assumed that interest to arise in a Contracting State when the payer is that State itself, a political subdivision, local authority or a resident of that State. However, if the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or fixed base in connection with which the indebtedness on which interest is paid, and such interest is borne by such permanent establishment or fixed base, then the source

of such interest shall be deemed State in which the permanent establishment or fixed base is situated.

5) If the amount of interest that relate to a claim for which it is paid by reason of a special relationship between the payer and the beneficial owner, or keep a second one with a third party, the amount which would have been agreed upon by the payer and the beneficial owner the absence of such relationship, the provisions of this Article only to the last-mentioned amount. The amount of wages, the excess will be taxed in this case under the laws of each Contracting State, due regard to other provisions of this contract.

## **Article 12**

### **Royalties**

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

2) Such royalties may be taxed in the Contracting State in which they arise and in accordance with the laws of that State, but if the recipient is the beneficial owner of royalties the tax so charged shall not exceed 10 percent of the gross amount of royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

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

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 in the other Contracting State in which the royalties arise, or business through a permanent establishment situated therein, or in that other State independent personal services exercised through a fixed base situated therein and the right or property in which the royalties are paid is effectively connected with such permanent establishment or fixed base. In this case, the provisions of Article 7 or Article 14, as the case.

5) It is assumed that the license fees to arise in a Contracting State when the payer is that State itself, a political subdivision, local authority or a resident of that State. However, if the person paying the royalties, whether he is or is not a resident of a Contracting State has in a Contracting State a permanent establishment or fixed base in connection with which the obligation to pay royalties, which are borne by a permanent establishment or fixed base, it is assumed such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

6) If the amount of the royalties, having regard to the use, right or information for which they are paid by reason of a special relationship between the payer and the beneficial owner or the second one maintains with a third party, 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 only to the last-mentioned amount. The amount of wages, the excess will be taxed in this case under the laws of each Contracting State, due regard to other provisions of this contract.

## **Article 13**

### **Gains from the alienation of property**

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

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

3) Gains from the alienation of ships, boats or aircraft operated in international traffic or movable property pertaining to the operation of such ships, boats or aircraft shall be taxable only in the Contracting State in which the location of the actual management.

4) Gains from the alienation of shares in the capital of the company whose property is directly or indirectly, made up of mainly immovable property situated in a Contracting State may be taxed in that State.

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

#### **Article 14**

##### **Independent Personal**

1) Income which a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except where the following circumstances such income may be taxed in the other Contracting State:

- a) if he has regularly available a fixed base in the other Contracting State for the purpose of carrying on its activities, in which case only such income that is attributable to that fixed base may be taxed in that other State, or
- b) if present in the other State for a period or periods exceeding in the aggregate 183 days in any twelve-month period, in which case only those receipts that result from his activities performed in that other State may be taxed in that other State.

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

#### **Article 15**

##### **Employment**

1) Salaries, wages and other similar remuneration, a resident of a Contracting State in respect of an employment Subject to the provisions of Articles 16, 18 and 19 be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration may be received for them taxed in that other State.

2) Remuneration which a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall, notwithstanding the provisions of paragraph 1 be taxable only in the first-mentioned State if all the following conditions are met:

- 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, and
- b) the remuneration is paid by the employer or employer who is not resident in the other State, and
- c) the remuneration is not borne by a permanent establishment or fixed base which the employer has in the other State.

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

#### **Article 16**

##### **Royalties**

Directors' fees and similar payments to a resident of a Contracting State in his capacity as a Board member or any other similar organ of a company which is resident in the other Contracting State may be taxed in that other State.

#### **Article 17**

##### **Artists and Athletes**

1) Income derived by a resident of a Contracting State to the public. prominent artist, as a theater, motion picture, radio or television artiste or a musician or as a sportsman from such activities

carried out in person in the other Contracting State, may be, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in that other State.

2) Where income in respect of personal activities exercised by an entertainer or athlete accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the entertainer or athlete carries on business.

## **Article 18**

### **Pension**

Pensions and similar remuneration paid in consideration of past employment resident of a Contracting State shall be subject to the provisions of paragraph 2 of Article 19 be taxable only in that State.

## **Article 19**

### **Public Function**

1 )

- a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or local authority thereof to an individual for services rendered to that State or subdivision or local authority shall be taxable only in that State.
- b) Such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual who is a resident of that State who:
  - (I) is a national of that State or
  - (II) did not become a resident of that State solely for the purpose of rendering the services.

2 )

- a) Any pension paid by, or out of funds created by a Contracting State, political subdivision or local authority thereof to an individual for services rendered to that State or subdivision or local authority shall be taxable only in that State.
- b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident and national of that State.

3) The provisions of this Article shall not apply to remuneration and pensions in respect of services rendered in connection with commercial or industrial activity carried on by a Contracting State, political subdivision or local authority thereof.

## **Article 20**

### **Students and Apprentices**

Student or apprentice who is present in a Contracting State solely for the purpose of study or training and who is or was immediately before residing resident of the other Contracting State, in the first-mentioned State exempt from tax from payments it receives from sources outside that first-mentioned State reimbursement for nutrition, education or training.

## **Article 21**

### **Other Income**

1) The income of the person who is a resident of a Contracting State, wherever arising, which are subject to tax in that State and not dealt with in previous articles of this Convention shall be taxable only in that State.

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

## **Article 22**

### **Elimination of Double Taxation**

Double taxation shall be eliminated as follows:

1) In the Czech Republic, the Czech Republic when imposing taxes on its residents to the base on which such taxes are imposed the income that may be under the provisions of Articles of this Agreement also be taxed in South Africa, but shall allow the amount of tax computed on such basis of amount equal to the tax paid in South Africa. Such a reduction, however, exceed that part of the Czech tax, as computed before the deduction, which is attributable to income that may be under the provisions of this Agreement taxed in South Africa.

2) In South Africa, South African residents pay tax on income which, in accordance with the provisions of this Agreement shall be taxable in the Czech Republic, will be deducted from taxes due under South African tax legislation. Such reduction shall not exceed the portion of income tax as computed before the deduction is attributable to the income which may be taxed in the Czech Republic.

3) Support provided by one of the Contracting States, its political subdivision or any institution of that State to a resident of the other Contracting State under the first-mentioned State laws and to promote economic development in the first-mentioned State shall not be taxed in the other State.

4) If it is the application of the provisions of paragraph 2, it is understood that the amount of taxes attributable to such income subject to tax in the Czech Republic, will be:

- a) if the tax on such income is calculated using proportional rate, the amount of net income multiplied by the rate that is actually used for this income, and
- b) if the tax on such income is calculated using a progressive rate, the amount of net income is appropriate in the same proportion as the total tax due to the total net income subject to taxation in accordance with South African tax law.

## **Article 23**

### **The Principle of Equal Treatment**

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 are or may be subjected to nationals of that other State who are, especially with regard to permanent residence in the same situation. This provision shall, notwithstanding the provisions of Article 1 also applies to persons who are not residents of one or both of the Contracting States.

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

3) 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 to determine the deductible taxable profits of that enterprise under the same conditions as if they were paid to a resident of the first-mentioned State.

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

5) The term "taxation" in this Article means taxes which are the subject of this contract.

## **Article 24**

### **Mutual Agreement**

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 thereof, may, notwithstanding the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of residence, or if his case comes under paragraph 1 of Article 23, the Contracting State of which he is national. The case must be presented within three years from the first notification of the action resulting in taxation that is not in accordance with the provisions of this contract.

2) If the competent authority of the objection to be justified and if it is not itself able to arrive at a satisfactory solution, will try to resolve the case by agreement with the competent authority of the other Contracting State, for the avoidance of taxation not in accordance with this Agreement. Any agreement reached shall be implemented notwithstanding the time constraints in the national legislation of a Contracting State.

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

4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement within the meaning of the preceding paragraphs. If an oral exchange of opinions seems advisable for reaching agreement, it may make such an exchange of views through a Commission consisting of representatives of the competent authorities of the Contracting States.

## **Article 25**

### **Exchange of Information**

1) The competent authorities of the Contracting States shall exchange information necessary for the application of the provisions of this contract or national laws of the Contracting States concerning taxes covered by this Agreement insofar as the taxation thereunder is not contrary to this Treaty. Exchange of information is not restricted by Article 1. All 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 taxes covered by this contract, criminal prosecution in respect of taxes or the determination of appeals. Such persons or authorities shall use such information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2) The competent authorities shall through consultations develop appropriate conditions, methods and procedures regarding the ways in which such exchanges will be conducted, including, where appropriate, exchange of information relating to tax avoidance.

3) The provisions of paragraph 1 be construed in any way so as to impose on a Contracting State the obligation:

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

## **Article 26**

### **Diplomats and Consular Officials**

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

**Article 27**  
**Entry into Force**

1) The Parties shall notify each other that the procedures required to meet their legal system for its entry into force. This Agreement shall enter into force on the date of the later of these notifications.

2) The provisions of this Treaty shall apply:

- a) in respect of taxes withheld at source on amounts paid or credited on the first day of the third month or later following the date on which the Convention enters into force, and
- b) in respect of other taxes, for tax years beginning on the first day of the third month or later following the date on which the Convention enters into force.

**Article 28**  
**Statement**

1) This Agreement shall remain in force indefinitely, but may be any of the Contracting States denounced in writing through diplomatic channels by 30 June of each calendar year starting five years after the year in which the treaty entered into force.

2) In this case, the Convention shall cease to apply:

- a) in respect of taxes withheld at source on amounts paid or credited after the end of the calendar year in which the notice is given, and
- b) in respect of other taxes, for tax years beginning after the calendar year in which the notice is given.

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

DONE in duplicate at Prague on 11 November 1996 in Czech and English languages, both texts being equally authentic.

*For the Government of the Czech Republic:*

**Ing. Ivan Kočárník PhD.** in  
Deputy Prime Minister and Minister of Finance

*For the Government of South Africa:*

**Thomas Langley** v r  
Ambassador Extraordinary and Plenipotentiary