NOTICE

No 21395 20 **July 2000**

INCOME TAX ACT, 1962

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND THE GOVERNMENT OF THE RUSSIAN FEDERATION FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

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

It is further notified in terms of paragraph 1 of Article 27 of the Agreement, that the date of entry into force is 26 June 2000.

In terms of the provisions of paragraph 2 of Article 27 of the said Agreement, the provisions of the Agreement shall apply as follows:

(a) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of the third month following the date upon which the Agreement entered into force, therefore, 1 September 2000; and

(b) with regard to other taxes, in respect of taxable years beginning on or after the first day of the third month next following the date upon which the Agreement entered into force, therefore, 1 September 2000.

The Agreement was published in Government Gazette No 21395 dated 20 July 2000.

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND THE GOVERNMENT OF THE RUSSIAN FEDERATION FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the Republic of South Africa and the Government of the Russian Federation desiring to promote and strengthen the relations between the two countries,

Have agreed as follows:

Article 1

Personal Scope

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

Article 2

Taxes Covered

1. This Agreement shall apply to taxes on income imposed in a Contracting State irrespective of the manner in which they are levied.

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

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

(a) in Russia - taxes imposed in accordance with the following Laws of the Russian Federation:

(i) "On taxes on profits of enterprises and organisations";
(ii) "On the income tax on individuals";

(hereinafter referred to as "Russian tax");

(b) in South Africa:

(i) the normal tax;
(ii) the non-resident shareholders' tax;
(iii) the secondary tax on companies;

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

4. This Agreement shall also apply to any other taxes of a substantially similar character which are subsequently imposed in addition to, or in place of, the taxes mentioned in paragraph 3.

5. The competent authorities of the Contracting States shall notify each other of any substantial 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 "Russia" means the Russian Federation and when used in a geographical sense, means its territory, including internal waters and territorial sea, airspace above them as well as exclusive economic zone and continental shelf where the Russian Federation exercises sovereign rights and jurisdiction in conformity with federal and international law;

(b) the term "South Africa" means the Republic of South Africa and, when used in a geographical sense, means its territory including the territorial sea thereof as well as any area outside the territorial sea which has been or may hereafter be designated, under the laws of South Africa and international law, as areas within which South Africa may exercise sovereign rights or jurisdiction;

(c) the terms "Contracting State" and "the other Contracting State" mean Russia or South Africa as the context requires;

(d) the term "person" comprises an individual, an enterprise, a company and any other body of persons;

(e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(g) the term "competent authority" means:

(i) in the case of Russia, the Ministry of Finance of the Russian Federation or its authorised representative; and

(ii) in the case of South Africa, the Commissioner for Inland Revenue or his authorised representative;

(h) the term "international traffic" means any transport by ship or aircraft operated by a resident of a Contracting State, except when the ship or aircraft is operated solely between places in a single Contracting State.

2. As regards the application of this Agreement in either Contracting State, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws in that State relating to the taxes which are the subject of this Agreement.

Article 4

Resident

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

   (a) in the case of Russia, any person who, under the law of that State, is liable to taxation therein by reason of his residence, place of management, place of registration or any other criterion of a similar nature; and
   (b) in the case of South Africa, any individual who is ordinarily resident in South Africa and any legal person (excluding a partnership) which has its place of management in South Africa.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his case shall be determined in accordance with the following rules:

   (a) he shall be deemed to be a resident of the State in which he has a domicile available to him. If he has a domicile available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic interests 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 does not have a domicile available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
   (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a citizen;
   (d) if each State considers him to be its citizen or if he is a citizen of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

Article 5

Permanent Establishment

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the activities of an enterprise of a Contracting State are wholly or partly carried on in the other Contracting State.

2. The term "permanent establishment" shall include especially:

   (a) a place of management;
   (b) a branch;
   (c) an office;
   (d) a factory;
   (e) a workshop;

(f) a mine, oil well, quarry or other place of extraction of natural resources; and
(g) a building site, construction, installation or assembly project which exists for a period of more than twelve months.

3. Notwithstanding the provisions of paragraph 1, the following activities of an enterprise shall be deemed not to be carried out through a permanent establishment:

(a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
(e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise; and
(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e).

4. An enterprise of a Contracting State, notwithstanding that it has no fixed place of business in the other Contracting State, shall be deemed to have a permanent establishment in that other State if it carries on supervisory activities therein in connection with a construction, installation or assembly project which is being undertaken in that other State for a period of more than twelve months.

5. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State (other than an agent of an independent status to whom paragraph 6 applies), notwithstanding that he has no fixed place of business in the first-mentioned State, shall be deemed to be a permanent establishment in that State if -

(a) he has, and habitually exercises, a general authority in the first-mentioned State to conclude contracts in the name of the enterprise; or
(b) he maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise; or
(c) he regularly secures orders in the first-mentioned State wholly or almost wholly for the enterprise.

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

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

Article 6

Income from Immovable Property

1. Income derived from immovable property, including income from agriculture or forestry, is taxable only in the Contracting State in which such property is situated.

2. The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated. Ships and aircraft shall not be regarded as immovable property.

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

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

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

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere.

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

5. 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.

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

Article 8

Income from Shipping and Air Transport

1. Income from the operation or rental of ships or aircraft in international traffic and the rental of containers and related equipment which is incidental to the operation of ships or aircraft in international

traffic shall be taxable only in the Contracting State of which the person deriving such income is a resident.

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

Article 9

Adjustment to Income

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

Article 10

Dividends

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

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

(a) 10 per cent of the gross amount of the dividends if residents of the other Contracting State hold at least 30 per cent of the capital of the company paying the dividends and have directly invested in the equity share capital (authorised fund) of that company an amount of not less than 100 000 United States dollars (US $100 000) or the equivalent thereof in the currency of the first-mentioned State; and

(b) 15 per cent of the gross amount of the dividends in all other cases.

3. The term "dividends" as used in this Article means income from shares or other rights participating in profits (not being debt claims), as well as income from other corporate rights which is subject to the same taxation treatment as income from shares according to the taxation law in the Contracting State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding by virtue of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 13, as the case may be, shall apply.

Article 11

Interest

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

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

The provisions of this paragraph shall not apply to interest paid in respect of a loan made or guaranteed by the Government of a Contracting State, a local authority thereof, the Bank of Russia or the South African Reserve Bank.

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 prizes attaching to such securities, bonds or debentures.

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, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 13, as the case may be, shall apply.

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

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 State, due regard being had to the other provisions of this Agreement.

Article 12

Royalties

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

2. The term "royalties" as used in this Article means payments of any kind received as a consideration for the alienation of, 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, computer program, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial or scientific experience.

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, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 13, as the case may be, shall apply.

4. Where, owing to a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties paid, 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 a case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

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

Article 13

Income from Independent Personal Services

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

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 14

Income from Employment

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State, unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

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

3. Notwithstanding the preceding provisions of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed only in the State of which the person operating the means of transport is a resident.

Article 15

Directors' Fees

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

2. The remuneration which a person to whom paragraph 1 applies derives from the company in respect of the discharge of day-to-day functions as an employee, shall be taxed in accordance with the provisions of Article 14.

Article 16

Income of Artistes and Athletes

1. Notwithstanding the provisions of Articles 13 and 14, income derived by entertainers such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such, may be taxed in the Contracting State in which these activities are exercised.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 13 and 14, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

Article 17

Pensions

Any pension (other than a pension of the kind referred to in paragraph 2 of Article 18) and any other similar remuneration derived by a resident of a Contracting State, may be taxed only in that State.

Article 18

Income from Government Service

1. Remuneration (other than a pension) paid by a Contracting State or a local authority thereof to an individual for services rendered to that State or authority in the discharge of governmental functions shall be exempt from tax in the other Contracting State if the individual is not ordinarily resident in that other State or is ordinarily resident in that other State solely for the purpose of rendering those services.

2. Any pension paid by, or out of funds created by, a Contracting State or a local authority thereof to an individual in respect of services rendered to that State or authority in the discharge of governmental functions may be taxed only in that State.

3. The provisions of this Article shall not apply to payments in respect of services rendered in connection with any business carried on by a Contracting State or a local authority thereof.

Article 19

Income of Teachers and Researchers

Notwithstanding the provisions of Article 14, a teacher or researcher who makes a temporary visit to one of the Contracting States for a period not exceeding two years for the purpose of teaching or carrying out research at a university, college, school or other educational or research institution in that State and who is, or immediately before such visit was, a resident of the other Contracting State shall, in respect of remuneration for such teaching or research, be exempt from tax in the first-mentioned State.

Article 20

Income of Students and Business Apprentices

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

Article 21

Other Income

Any income, not dealt with in the foregoing Articles of this Agreement, derived by a resident of a Contracting State shall be subjected to tax only in that State.

Article 22

Method of Elimination of Double Taxation

Where a resident of a Contracting State derives income from the other Contracting State, the amount of tax on that income payable in that other State in accordance with the provisions of this Agreement, may be credited against the tax levied in the first-mentioned State on that resident. The amount of credit, however, shall not exceed the amount of the tax of the first-mentioned State on that income computed in accordance with its taxation laws and regulations.

Article 23

Non-discrimination

1. The citizens 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 citizens of that other State in the same circumstances are or may be subjected.

2. A Contracting State shall not adjust any assessment of a resident of the other Contracting State by including items of income already taxed in the other State after the expiry of the time limits provided for in its domestic law.

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.

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 enterprises, the capital of which is wholly owned or controlled by residents of that first-mentioned State, in the same circumstances, are or may be subjected.

5. Nothing in this Article shall be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and deductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

6. In this Article the term "taxation" means taxes which are the subject of this Agreement.

Article 24

Mutual Agreement Procedure

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Agreement, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this 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 an appropriate 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 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 this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 25

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement and of the domestic laws of the Contracting States concerning taxes covered by this Agreement in so far as the taxation thereunder is in accordance with this Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment or collection of the taxes which are the subject of this Agreement.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the competent authorities the obligation:

(a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;

(b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public interest.

Article 26

Employees of Diplomatic Missions and Consular Establishments

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

Article 27

Entry into Force

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

2. The provisions of this Agreement shall apply:

(a) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of the third month next following the date upon which this Agreement enters into force; and
(b) with regard to other taxes, in respect of taxable years beginning on or after the first day of the third month next following the date upon which this Agreement enters into force.

Article 28

Termination

1. This Agreement shall remain in force indefinitely but either of the Contracting States may terminate the Agreement through diplomatic channels, by giving to the other Contracting State written notice of termination not later than 30 June of any calendar year starting five years after the year in which the Agreement entered into force.

2. In such event the Agreement shall cease to have effect:

(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 on which such notice is given; and
(b) with regard to other taxes, in respect of taxable years beginning on or after the first day of January next following the date on which such notice is given.

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

DONE at Pretoria, this 27th day of November 1995, in duplicate, each in the English and Russian languages, both texts being equally authentic.

A.Erwin
FOR THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA

S.D.Shatalov
FOR THE GOVERNMENT OF THE
RUSSIAN FEDERATION

PROTOCOL

At the moment of signing the Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, concluded this day between the Government of the Republic of South Africa and the Government of the Russian Federation, the undersigned have agreed that the following provisions shall form an integral part of the Agreement.

For the purposes of paragraphs 2 and 5 of Article 11, paragraph 5 of Article 12 and Article 18, it is understood that the term "local authority thereof" also includes:

(a) in the case of Russia, the respective authorities of the subjects of the Russian Federation;
(b) in the case of South Africa, the respective authorities of the constitutional subdivisions of the Republic of South Africa.

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

DONE at Pretoria, this 27th day of November 1995, in duplicate, each in the English and Russian languages, both texts being equally authentic.

A.Erwin
FOR THE GOVERNMENT OF THE
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