

CONVENTION

BETWEEN

THE KINGDOM OF MOROCCO

AND

THE REPUBLIC OF SOUTH AFRICA

FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE

PREVENTION OF FISCAL EVASION WITH RESPECT TO

TAXES ON INCOME

Preamble

The Government of the Kingdom of Morocco and the Government of the Republic of South Africa desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, and to promote and strengthen the economic relations between the two countries,

Have agreed as follows:

Article 1

Persons Covered

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

Article 2

Taxes Covered

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property or taxes on the total amounts of wages or salaries paid by enterprises.
3. The existing taxes to which the Convention shall apply are:
 - (a) in Morocco:
 - (i) the general income tax; and
 - (ii) the corporation tax;

(hereinafter referred to as "Moroccan tax"); and

- (b) in South Africa:
 - (i) the normal tax;
 - (ii) the secondary tax on companies; and
 - (iii) the withholding tax on royalties;

(hereinafter referred to as “South African tax”).

- 4. The Convention shall apply also to any identical or substantially similar taxes that are imposed by either Contracting State 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.

Article 3

General Definitions

- 1. For the purposes of this Convention, unless the context otherwise requires:
 - (a) the term “Morocco” means the Kingdom of Morocco and, when used in a geographical sense, the term “Morocco” includes:
 - (i) the territory of the Kingdom of Morocco, the territorial sea thereof; and
 - (ii) the maritime areas beyond the territorial sea, including the seabed and subsoil thereof (continental shelf) and the exclusive economic zone over which Morocco exercises sovereign rights, in accordance with its domestic laws and international law, for the purpose of exploration and exploitation of the natural resources of such areas;
 - (b) the term “South Africa” means the Republic of South Africa and, when used in a geographical sense, includes the territorial sea thereof as well as any area outside the territorial sea, including the continental shelf, which has been or may hereafter be designated, 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;
 - (c) the terms “a Contracting State” and “the other Contracting State” mean Morocco or South Africa, as the context requires;
 - (d) the term “company” means any body corporate or any entity that is treated as a company or body corporate for tax purposes;

- (e) the term “competent authority” means:
 - (i) in Morocco, the Minister of Finance or an authorised representative of the Minister; and
 - (ii) in South Africa, the Commissioner for the South African Revenue Service or an authorised representative of the Commissioner;
 - (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 “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;
 - (h) the term “national” means:
 - (i) any individual possessing the nationality of a Contracting State; and
 - (ii) any legal person or association deriving its status as such from the laws in force in a Contracting State. The term also includes a partnership in the case of Morocco;
 - (i) the term “person” includes an individual, a company and any other body of persons that is treated as an entity for tax purposes. The term also includes a partnership in the case of Morocco; and
 - (j) the term “tax” means Moroccan tax or South African tax, as the context requires.
2. As regards the application of the provisions of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4

Resident

1. For the purposes of this Convention, the term “resident of a Contracting State” means 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), the individual shall be deemed to be a resident solely of the State in which the individual has an habitual abode;
 - (c) if the individual has an habitual abode in both States or in neither of them, the individual shall be deemed to be a resident solely of the State of which the individual is a national;
 - (d) if the individual is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident solely of the State in which its place of effective management is situated.

Article 5

Permanent Establishment

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

2. The term “permanent establishment” includes especially:
 - (a) a place of management;
 - (b) a branch;
 - (c) an office;
 - (d) a factory;
 - (e) a workshop;
 - (f) a sales outlet; and
 - (g) a mine, an oil or gas well, a quarry or any other place of extraction or exploitation of natural resources.

3. The term “permanent establishment” likewise encompasses:
 - (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 six months;
 - (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 aggregating more than three months in any twelve-month period commencing or ending in the fiscal year concerned;
 - (c) the carrying on of business through the provision of services or facilities in connection with, or the supply of plant and machinery on hire used for or to be used in the prospecting for, or extracting or exploitation of mineral oils in that State for a period or periods aggregating more than 30 days in any twelve-month period commencing or ending in the fiscal year concerned.

4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:
 - (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
 - (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;
 - (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character; and

- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
- 5. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 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 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.
- 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.
- 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.

Article 6

Income from Immovable Property

- 1. Income derived by a resident of a Contracting State from immovable property, including income from agriculture or forestry, situated in the other Contracting State may be taxed in that other State.
- 2. The term “immovable property” shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources. Ships, boats and aircraft shall not be regarded as immovable property.
- 3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.
5. Where the ownership of shares or other corporate rights in a company 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 that right to enjoyment may be taxed in the Contracting State in which the immovable property is situated.

Article 7

Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

4. 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.
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.
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 and sufficient reason to the contrary.
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.

Article 8

Shipping and Air Transport

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.
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.
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, but only to so much of the profits so derived as is attributable to the participant in proportion to its share in the joint operation.
4. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic shall include:
 - (a) profits derived from the rental on a bare boat basis of ships or aircraft used in international traffic,
 - (b) profits derived from the use or rental of containers,if such profits are incidental to the profits to which the provisions of paragraph 1 apply.

Article 9

Associated Enterprises

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

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

2. Where a Contracting State includes in the profits of an enterprise of that State – and taxes accordingly – profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State may make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.
3. The provisions of paragraph 2 shall not apply where judicial, administrative or other legal proceedings have resulted in a final ruling that by actions giving rise to an adjustment of profits under paragraph 1, one of the enterprises concerned is liable to penalty with respect to fraud, gross negligence or wilful default.

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 which holds at least 25 per cent of the capital of the company paying the dividends; or
 - (b) 10 per cent of the gross amount of the dividends in all other cases.

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

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

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 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.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except 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 or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.
6. A Contracting State may impose on the profits attributable to a permanent establishment in that Contracting State of a company which is a resident of the other Contracting State:
 - (a) in Morocco, a tax at a rate not exceeding five per cent on the amount of the profits of the permanent establishment, after deduction of the corporation tax relating to such profits, and
 - (b) in South Africa, a tax at a rate which does not exceed the rate of normal tax on companies by more than five percentage points.

Article 11

Interest

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

3. Interest arising in a Contracting State shall be exempt from tax in that State if it is derived and beneficially owned by:
 - (a) the Government, a political subdivision or a local authority of the other Contracting State; or
 - (b) the Bank Al-Maghrib and the South African Reserve Bank.
4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purposes of this Article.
5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.
6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether that person is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

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

Article 12

Royalties and Fees for Technical Services

1. Royalties or fees for technical services arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such royalties or fees for technical services 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 or fees for technical services is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties or fees for technical services.

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 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 used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.
4. The term “fees for technical services” as used in this Article means payments of any kind received as a consideration for services of a managerial, technical or consultancy nature, but does not include payments for services mentioned in Article 15.
5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties or fees for technical services, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties or fees for technical services 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, property or contract in respect of which the royalties or fees for technical services are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Royalties or fees for technical services 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 or fees for technical services, whether that person is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base with which the right, property or contract in respect of which the royalties or fees for technical services are paid is effectively connected, and such royalties or fees for technical services are borne by such permanent establishment or fixed base, then such royalties or fees for technical services shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties or fees for technical services, having regard to the use, right or information, or services for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13

Capital Gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. Gains derived by a resident of a Contracting State from the alienation of shares in a company, the assets of which consist wholly or mainly of immovable property situated in the other Contracting State, may be taxed in that other State.
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.

Article 14

Independent Personal Services

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless a fixed base is regularly available to the individual in the other Contracting State for the purpose of performing the individual's activities. If such a fixed base is available to the individual, the income may be taxed in the other State but only so much of it as is attributable to that fixed base. For the purposes of this Convention, where an individual who is a resident of a Contracting State is present in the other Contracting State for a period or periods exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned, the individual shall be deemed to have a fixed base regularly available in that other State and the income that is derived from the individual's activities performed in that other State shall be attributable to that fixed base.
2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15

Dependent Personal Services

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
 - (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned; and
 - (b) the remuneration is paid by or on behalf of an employer who is not a resident of the other State; and
 - (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16

Directors' Fees and Remuneration of Top-Level Managerial Officials

1. Directors' fees and other similar payments derived by a resident of a Contracting State in that person's capacity as a member of the board of directors or of a similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.
2. Salaries, wages and other similar remuneration derived by an individual who is a resident of a Contracting State in that individual's capacity as an official in a top-level managerial position of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17

Entertainers and Sportspersons

1. Notwithstanding the provisions of Articles 7, 14 and 15, income derived by a resident of a Contracting State as an entertainer such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from 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, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.
3. Income derived by a resident of a Contracting State from activities exercised in the other Contracting State, as envisaged in paragraphs 1 and 2, shall be exempt from tax in that other State if the visit to that other State is supported wholly or mainly by public funds of the first-mentioned Contracting State, a political subdivision or a local authority thereof, or takes place under a cultural agreement or arrangement between the Governments of the Contracting States.

Article 18

Pensions, Annuities and Social Security Payments

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

2. The term “annuity” means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money’s worth.
3. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under the social security legislation of a Contracting State shall be taxable only in that State.

Article 19

Government Service

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

(b) However, such salaries, wages and similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2. (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.
3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages and similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20

Students, Apprentices and Business Trainees

1. A student, apprentice or business trainee who is present in a Contracting State solely for the purpose of the student, apprentice or business trainee'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, apprentice or business trainee's maintenance, education or training.
2. In respect of grants, scholarships and remuneration from employment not covered in paragraph 1, a student, apprentice or business trainee described in paragraph 1 shall, in addition, be entitled during such education or training to the same exemptions, reliefs or reductions in respect of taxes available to residents of the State visited.

Article 21

Professors and Teachers

1. Notwithstanding the provisions of Article 15, a professor or teacher who makes a temporary visit to one of the Contracting States for a period not exceeding in the aggregate two years from the date of first arrival in that State, solely for the purpose of teaching or carrying out research at a university, college, school or other educational 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, provided that such remuneration is derived by that person from outside that State and such remuneration is subject to tax in the other State.
2. The provisions of this Article shall not apply to income from research if such research is undertaken not in the public interest but wholly or mainly for the private benefit of a specific person or persons.

Article 22

Other Income

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

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

Article 23

Elimination of Double Taxation

1. In the case of Morocco, double taxation shall be eliminated as follows:
 - (a) Where a resident of Morocco derives income which, in accordance with the provisions of this Convention, may be taxed in South Africa, Morocco shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in South Africa. However, such deduction shall not exceed that part of the Moroccan tax, as computed before the deduction is given, which is attributable to the income which may be taxed in South Africa.
 - (b) Where, in accordance with any provision of this Convention, income derived by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the rate of tax on the remaining income of such resident, take into account the exempted income.

2. In the case of South Africa, double taxation shall be eliminated as follows:

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), Moroccan tax paid by residents of South Africa in respect of income taxable in Morocco, 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 total income.

3. It is understood that South Africa does not impose tax on foreign dividends received from a shareholding of more than 25 per cent in a non-resident company and does not subject to tax the profits from active business operations carried on by controlled foreign corporations. South Africa will inform Morocco should this position change and the competent authorities will enter into a re-negotiation in order to reach an appropriate solution in this respect, having regard to the provisions of Article 24.

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. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
3. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.
4. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11 or paragraph 7 of Article 12 apply, interest, royalties, fees for technical services and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.
5. In no case shall the provisions of this Article be construed as preventing either Contracting State from:
 - (a) imposing the taxes described in paragraph 6 of Article 10;
 - (b) applying the provisions of its domestic law as regards thin capitalisation and transfer pricing.

6. The provisions of this Article shall, 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 that person in taxation not in accordance with 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 that person is a resident or, if the case comes under paragraph 1 of Article 24, 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.
4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a joint commission consisting of representatives of the competent authorities of the Contracting States.

Article 26

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention in so far as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. 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 covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.
2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:
 - (a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;
 - (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
 - (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

Article 27

Assistance in Recovery

1. The Contracting States shall, to the extent permitted by their respective domestic law, lend assistance to each other in order to recover the taxes referred to in Article 2 as well as interest and penalties with regard to such taxes, provided that reasonable steps to recover such taxes have been taken by the Contracting State requesting such assistance.
2. Claims which are the subject of requests for assistance shall not have priority over taxes owing in the Contracting State rendering assistance and the provisions of paragraph 1 of Article 26 shall also apply to any information which, by virtue of this Article, is supplied to the competent authority of a Contracting State.
3. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of the provisions of this Article.

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

Entry into Force

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

Article 30

Termination

1. This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through the diplomatic channel, by giving written notice of termination on or before the thirtieth day of June of any calendar year following after the period of five years from the year in which the Convention enters into force.
2. In such case, the Convention shall cease to have effect:
 - (a) with regard to taxes withheld at source, in respect of amounts paid or credited on or after 1 January in the year next following that in which the notice of termination is given; and

- (b) with regard to other taxes on income, in respect of taxable years beginning on or after 1 January in the year next following that in which the notice of termination is given.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed and sealed this Convention.

DONE atin duplicate, this day of 200... in the Arabic and English languages, both texts being equally authentic.

**FOR THE GOVERNMENT OF THE
KINGDOM OF MOROCCO**

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